



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, The Code, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

The ARC number which appears before each agency heading is assigned by the Administrative Rules Co-ordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6, The Code. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules co-ordinator and published in the Bulletin.

WAYNE A. FAUPEL, Code Editor
PHYLLIS BARRY, Deputy Code Editor
LAVERNE SWANSON, Administrative Code Assistant

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 13, 1982	September 1, 1982
6	Friday, August 27, 1982	September 15, 1982
7	Friday, September 10, 1982	September 29, 1982

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Iowa Administrative Bulletin

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Phone: (515) 281-5231

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Paper

The Administrative Rules Review Committee will hold a special meeting Tuesday and Wednesday, September 7 and 8, 1982, 9:00 a.m., Committee Room 22, State Capitol. This meeting will be held in lieu of the statutory date of September 14, 1982. The following rules will be reviewed.

Note: Rules published in 9/1/82 IAB will also be reviewed. A supplemental agenda will appear in that bulletin.

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AUDITOR OF STATE[130] Real estate loans, 1.30 IAB 8/4/82 ARC 3104	Sixth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 27, 1982 1:30 p.m.
Real estate loans, ch12 IAB 8/4/82 ARC 3105	Sixth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 27, 1982 1:30 p.m.
BANKING, DEPARTMENT OF[140] Loans on real property, 9.2 IAB 7/21/82 ARC 3068	Banking Department Board Room Liberty Bldg. 418 Sixth Ave. Des Moines, Iowa	August 25, 1982 1:30 p.m.
CITY FINANCE COMMITTEE[230] Budget amendments and fund transfers, ch 2 IAB 8/18/82 ARC 3122	Nebraska Room Stouffer's Five Seasons Hotel 350 1st Ave., N.E. Cedar Rapids, Iowa	September 15, 1982 1:00 p.m.
COMMERCE COMMISSION[250] Telephone utilities, ch 22 IAB 7/21/82 ARC 3057	Commission Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	August 30, 1982 10:00 a.m.
CONSERVATION COMMISSION[290] Wildlife Habitat Stamp, 22.5, 22.6 IAB 8/4/82 ARC 3079	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 10, 1982 10:00 a.m.
State forest camping, ch 41 amendments IAB 8/4/82 ARC 3080	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 24, 1982 10:00 a.m.
CREDIT UNION DEPARTMENT[295] Real estate loans, ch 10 IAB 8/4/82 ARC 3099	Second Floor Conference Room Executive Hills, West 1209 E. Court Ave. Des Moines, Iowa	August 26, 1982 2:00 p.m.
EMPLOYMENT SECURITY[370] Claims and benefits, ch 4 amendments IAB 8/18/82 ARC 3144	Job Service Office 1000 E. Grand Ave. Des Moines, Iowa	September 15, 1982 9:30 a.m.
Federal Social Security, ch 9 amendments IAB 8/18/82 ARC 3146	Job Service Office 1000 E. Grand Ave. Des Moines, Iowa	September 15, 1982 9:30 a.m.
Forms, 10.9 IAB 8/18/82 ARC 3147	Job Service Office 1000 E. Grand Ave. Des Moines, Iowa	September 15, 1982 9:30 a.m.
INSURANCE DEPARTMENT[510] Administration of Iowa Business Opportunity Sales Act, ch 55 IAB 8/4/82 ARC 3102	Ground Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 27, 1982 10:00 a.m.

IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523]

Beginning farmer loan program,
2.17
IAB 8/4/82 ARC 3090

550 Liberty Bldg.
Des Moines, Iowa

August 26, 1982
9:00 a.m.

Soil conservation loan
program, ch 4
IAB 8/18/82 ARC 3142
(See IAB 8/18/82 ARC 3141)

550 Liberty Bldg.
Des Moines, Iowa

September 9, 1982
10:30 a.m.

PLANNING AND PROGRAMMING[630]

Youth affairs, 14.4
IAB 8/4/82 ARC 3106

Conference Room
Office for Planning
and Programming
523 E. 12th St.
Des Moines, Iowa

August 24, 1982
1:30 p.m.

PUBLIC SAFETY DEPARTMENT[680]

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liquids, ch 5 amendments
IAB 8/4/82 ARC 3078

Third Floor
Conference Room, east half
Wallace State Office Bldg.
Des Moines, Iowa

August 26, 1982
10:00 a.m.

REAL ESTATE COMMISSION[700]

Branch offices licenses, 1.25
IAB 7/21/82 ARC 3072

Commission Office
1223 E. Court Ave.
Des Moines, Iowa

August 26, 1982
2:00 p.m.

SOCIAL SERVICES DEPARTMENT[770]

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eligibility, ch 75 amendments
IAB 8/4/82 ARC 3100
(See IAB 6/9/82 ARC 2950)

712 Third Avenue SE
United Way of Linn County
Cedar Rapids, Iowa

August 25, 1982
2:00 p.m.

Department of Social Services
428 Western Avenue
Fifth Floor Conference Room
Davenport, Iowa

August 26, 1982
1:30 p.m.

Public Library, Room A
123 South Linn Street
Iowa City, Iowa

August 26, 1982
2:00 p.m.

Department of Social Services
District Office
1531 S. Monroe Avenue
Mason City, Iowa

August 25, 1982
2:00 p.m.

Department of Social Services
District Office
Conference Room
808 - 5th
Sioux City, Iowa

August 26, 1982
7:00 p.m.

Department of Social Services
Black Hawk Conference Room
Second Floor, KWWL Bldg.
Waterloo, Iowa

August 26, 1982
1:30 p.m.

TRANSPORTATION DEPARTMENT[820]

OMVUI and implied consent,
[07,C] Driver licensing
IAB 6/23/82 ARC 2973

Department of Transportation
Complex
Ames, Iowa

November 30, 1982

Contested cases amendments
to [01,B] ch 3
IAB 7/21/82 ARC 3045

Department of Transportation
Complex
Ames, Iowa

August 31, 1982

Vehicle registration and
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IAB 8/18/82 ARC 3121

Department of Transportation
Complex
Ames, Iowa

September 28, 1982

ARC 3122
CITY FINANCE COMMITTEE[230]
NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Sections 384.13 to 384.22, the City Finance Committee gives notice of its intention to rescind Chapter 2, "Budget Amendments and Fund Transfers", Iowa Administrative Code, and insert in lieu thereof a new Chapter 2, "Budget Amendments and Fund Transfers".

Including continuing appropriations in the city's financial plan will provide citizens a broader view of city operations. The requirement of a budget amendment process for additional transfers between categories will allow an additional opportunity for citizen participation in any changes to the planned financial operations.

A public hearing is scheduled for September 15, 1982, in the Nebraska Room, First Floor, Stouffer's Five Seasons Hotel, 350 1st Avenue NE, Cedar Rapids, Iowa, at 1:00 p.m. Persons may present their views at this public hearing either orally or in writing.

Any interested person may make written suggestions or comments on these proposed rules prior to September 14, 1982. Such written material should be directed to: Ronald J. Amosson, Chairman, City Finance Committee, State Comptroller's Office, State Capitol Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact Ronald J. Amosson, Chairman, City Finance Committee, at (515) 281-3078 or in the State Comptroller's Office, lower level, State Capitol Building, Room 12.

These rules are intended to implement Iowa Code chapter 384.

The following chapter is proposed.

CHAPTER 2

BUDGET AMENDMENTS AND FUND TRANSFERS

230—2.1(384) Consistent with home rule legislation, the city finance committee encourages as much flexibility as possible in municipal budget administration. At the same time, it is the responsibility of the city finance committee to require those procedures and processes necessary to assure adequate notice to citizens of proposed and adopted changes in the local budget and to provide an opportunity for citizen involvement in the reallocation process.

230—2.2(384) Definitions. The following terms when used in the rules of this part have the following meanings:

2.2(1) "Act" means the Home Rule Act, Acts of the Sixty-fourth General Assembly, Chapter 1088, as amended.

2.2(2) "Budget appropriation" means the allocation of the total appropriation by category to each program for the following fiscal year, as provided for by a city's budget as finally adopted. All appropriations shall be allocated to one or more categories as defined in 2.2(3) and shall also be allocated to one or more programs as defined in 2.2(4) or as transfers between funds as defined in 2.2(7).

2.2(3) "Category" means any one of the following major areas segregating governmental operations by function and scope of activity, as follows:

a. Current governmental operations - current governmental operations include the general, emergency, special revenue, debt service, intragovernmental service, and trust and agency funds.

b. Current proprietary operations - current proprietary operations include the enterprise and utility funds.

c. Continuing appropriations - a continuing appropriation is the amount appropriated in the City Budget Certificate Summary or budget amendment thereto for expenditures for public improvements. Public improvements shall be expenditures for either an essential or general corporate purpose, as defined in Iowa Code sections 384.24(3) and 384.24(4), to be paid for in whole or in part by the use of the funds of the city, regardless of sources.

2.2(4) "Program" means any one of the following four major areas of public service that the city finance committee requires cities to use in defining program structure:

a. Community protection.

b. Human development.

c. Home and community environment.

d. Policy and administration.

2.2(5) "Budget amendment" means any change in the appropriations of a city's budget after the budget has been finally adopted, and that requires preparation and adoption as provided in section 384.16 and subject to protest as provided in section 384.19.

If in these rules the committee has provided that amendments of certain types or up to certain amounts do not require preparation and adoption as provided in section 384.16 and are not subject to protest as provided in section 384.19, then these types of amendments are not considered to be budget amendments.

2.2(6) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash and other resources together with all related liabilities, obligations, reserves and equities which are segregated for the purpose of carrying on specific activities or obtaining certain objectives in accordance with special regulations, restrictions or limitations.

2.2(7) "Transfers between funds" means the transfer of amounts from one fund to another fund.

230—2.3(384) Appropriation of unanticipated amounts. Budget amendments to the adopted city budget to permit the appropriation and expenditure of unencumbered and unanticipated balances, or amounts anticipated to be available from sources other than property taxes but which have not been appropriated in the adopted budget shall be prepared as provided in section 384.16 and subject to protest in section 384.19.

All adopted budget amendments to appropriate and expend unanticipated amounts must be certified to the auditor of the county or counties where the city is located and to the state comptroller.

230—2.4(384) Transfers between programs. Except as specifically provided elsewhere in these rules, all appropriation transfers between programs are budget amendments and shall be prepared as provided in section 384.16 and subject to protest as provided in section 384.19.

CITY FINANCE COMMITTEE[230] (cont'd)

All adopted budget amendments to permit the transfer of adopted budget appropriations between programs must be certified to the auditor of the county or counties where the city is located and to the state comptroller.

230—2.5(384) Transfers between categories. Except as specifically provided elsewhere in these rules, all appropriation transfers between categories are budget amendments and shall be prepared as provided in section 384.16 and subject to protest as provided in section 384.19.

All adopted budget amendments to permit the transfer of adopted budget appropriations between categories must be certified to the auditor of the county or counties where the city is located and to the state comptroller.

230—2.6(384) General provision. Transfers between funds but still within one category and program are types of amendments that do not require preparation and adoption as provided in section 384.16 and are not subject to protest as provided in section 384.19. It is the responsibility of the governing body of each city to provide its own written rules for transfers within one category and program, but such transfers must comply with the state laws regarding the funds and the following subrules.

2.6(1) Emergency fund. No transfers may be made from any funds to the emergency fund.

2.6(2) Debt service fund. Except where specifically prohibited by state law, moneys may be transferred from any other city fund to the debt service fund to meet outstanding principal and interest. Such transfers must be authorized by the original budget or a budget amendment which has been adopted as provided in section 384.16 and subject to protest as provided in section 384.19.

2.6(3) Capital improvements reserve fund. Except where specifically prohibited by state law, moneys may be transferred from any city fund to the capital improvements reserve fund for purposes specified in section 384.7. Such transfers must be authorized by the original budget or a budget amendment which has been adopted as provided in section 384.16 and subject to protest as provided in section 384.19.

sion hereby gives notice that it intends to amend Chapters 19, 20, 21 and 22, Iowa Administrative Code. To this end, the Commission issued on July 30, 1982, an order commencing such rulemaking, which has been identified as Docket No. RMU-82-12.

Pursuant to Iowa Code section 17A.4“b”, any interested person may file with the commission, not later than September 7, 1982, an original and six copies of a written statement of position substantially complying with the form prescribed in subrule 2.2(2), IAC, containing data, views, comments or argument concerning the proposed amendment. The commission has waived its own subrule 3.4(2) for this proceeding only.

All communications shall clearly indicate the author's name and address and shall contain a specific reference to this docket and the rule upon which comment is submitted. All communications shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319. This rulemaking proceeding shall be conducted pursuant to chapter 3, IAC, except as previously noted.

The purpose of this proposal is to have gas, electric, and water utilities pay the same interest on customer deposits as telephone utilities.

ITEM 1. Amend subrule **19.4(3)** by striking the following language in the second line beginning with “Interest of at least seven percent per annum, compounded on an annual basis, shall be paid on deposits through March 31, 1982. Commencing April 1, 1982, the interest compounded annually, shall be the average quarterly interest rate at commercial banks of twelve-month loans for personal expenditures (as set forth in the Federal Reserve statistical release E.12(122)). For time period less than a year, a weighted average of the published quarterly rates is applicable.” and inserting in lieu thereof:

“As of the effective date of this rule, and on a prospective basis only, utilities may cease computing interest on customer deposits at previously designated rates, and rate regulated utilities shall begin computing interest on customer deposits at twelve percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question.”

ITEM 2. Amend subrule **20.4(4)** by striking the following language in the second line beginning with “Interest of at least seven percent per annum, compounded on an annual basis, shall be paid on deposits through June 30, 1981. Commencing July 1, 1981, the interest compounded annually, shall be the average quarterly interest rate at commercial banks of twelve-month loans for personal expenditures (as set forth in the Federal Reserve statistical release E.12(122)). For time period less than a year, a weighted average of the published quarterly rates is applicable.” and inserting in lieu thereof:

“As of the effective date of this rule, and on a prospective basis only, utilities may cease computing interest on customer deposits at previously designated rates, and rate regulated utilities shall begin computing interest on customer deposits at twelve percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question.”

ARC 3126**COMMERCE COMMISSION[250]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)“b”.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Sections 17A.4(1) and 476.2, the Iowa State Commerce Commis-

COMMERCE COMMISSION[250] (cont'd)

ITEM 3. Amend subrule 21.4(2) paragraph "b" by striking the following language in the first line beginning with "Interest of at least seven percent per annum, which is to be compounded on an annual basis, shall be paid by the investor-owned utility to each customer required to make a deposit. Interest of at least six percent per annum, which is to be compounded on an annual basis, shall be paid by mutual and co-operative utilities to each customer required to make a deposit. Interest of at least five percent per annum, which is to be compounded on an annual basis, shall be paid by municipal utilities to each customer required to make a deposit." and inserting in lieu thereof:

"As of the effective date of this rule, and on a prospective basis only, utilities may cease computing interest on customer deposits at previously designated rates, and rate regulated utilities shall begin computing interest on customer deposits at twelve percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question."

ITEM 4. Amend subrule 22.4(2) paragraph "b" by striking the following language in the second line beginning with "Interest of at least seven percent per annum, compounded on an annual basis, shall be paid on deposits through July 14, 1982. Commencing on July 14, 1982, the interest compounded annually, shall be twelve percent per annum." and inserting in lieu thereof:

"As of the effective date of this rule, and on a prospective basis only, utilities may cease computing interest on customer deposits at previously designated rates, and rate regulated utilities shall begin computing interest on customer deposits at twelve percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question."

ARC 3144

EMPLOYMENT SECURITY[370]

(JOB SERVICE)

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code Sections 96.11 and 17A.3, the Iowa Department of Job Service hereby gives Notice of Intended Action to amend Chapter 4, "Claims and Benefits", Iowa Administrative Code.

The proposed rule changes are: Item 1 — Clarifies that the Iowa Supreme Court requires that a deduction be

made from job insurance payments (excluding any amounts contributed by the claimant) of any amount received by the claimant in a lump sum payment. Item 2 — The present wording of work "deemed unsuitable" is technically incorrect because the work could certainly be suitable but inability to perform the work because of illness, injury or nonavailability could preclude the claimant from accepting the employment. Item 3 — The Supreme Court of Iowa, in the case of Sheryl A. Cospers vs. Iowa Department of Job Service and Blue Cross of Iowa, interpreted Iowa Code section 96.5, subsection 2, in holding that Iowa's unemployment law required that excessive absenteeism be of intentional nature and for reasons other than illness before it could be considered as misconduct. Item 4 — Job Service of Iowa is federally funded and reimbursed to process and pay benefits under the Federal Trade Act and affects only those claimants who are eligible for trade assistance payments.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., September 15, 1982, to James A. Hunsaker III, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., September 15, 1982, at the above address. The proposed amendments are subject to revisions after the department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Hunsaker at (515) 281-8093 or at the above address.

These rules are intended to implement Iowa Code sections 96.4, 96.4(6)"b" and 96.5; Public Law 97-35; and Supreme Court of Iowa Decision, Sheryl A. Cospers vs. Iowa Department of Job Service and Blue Cross of Iowa.

The following amendments are proposed.

ITEM 1. Amend subrule 4.13(1) to read as follows:

4.13(1) Wages for benefit payment purposes include wages as defined in rule 4.1(96) and Iowa Code section 96.5 of the Code. *Lump sum payments of vacation pay are deductible in the manner prescribed in rule 4.16. All other lump sum payments of deductible remuneration shall be deducted on a week-to-week basis until such amount is exhausted and as delineated further in this rule. It is the responsibility of the employer to designate the period and the amount per period to which the lump sum applies. If the employer fails or declines to designate the period and the period to which the lump sum applies cannot be determined, the lump sum deduction shall be applied in full to the week in which the payment was made.* The following remuneration shall be deducted from job insurance payments.

This rule is intended to implement Iowa Code section 96.5.

ITEM 2. Amend subrule 4.24(4) to read as follows:

4.24(4) Work refusal when not suitable if the claimant is not able and available. Before a disqualification for failure to accept work may be imposed, an individual must first be available for work. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since no work is deemed suitable for a claimant when such claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for

EMPLOYMENT SECURITY[370] (cont'd)

work. However, the claimant's availability would be the issue to be determined in these types of cases.

This rule is intended to implement Iowa Code sections 96.4 and 96.5.

ITEM 3. Amend subrule 4.32(7) to read as follows:

4.32(7) Excessive *unexcused* absenteeism. Excessive *unexcused* absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct *except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.*

This rule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa Decision, Sheryl A. Cospers vs. Iowa Department of Job Service and Blue Cross of Iowa.

ITEM 4. Amend rule 4.39(96) by adding a new subrule 4.39(13) to read as follows:

4.39(13) An individual receiving benefits under the provisions of the Trade Act of 1974 shall not be disqualified for leaving employment which is not suitable to enter approved training. Suitable employment for Trade Act purposes is defined as work of substantially equal or higher skill level than the individual's past adversely affected employment if the wages for such employment are not less than eighty percent of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code section 96.4(6)"b" and Public Law 97-35.

for the employers, and further describes the payment procedure. Item 6 — Changes the penalty for late payment of contributions from six percent to the rate the social security administration charges the State of Iowa.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., September 15, 1982, to James A. Hunsaker III, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., September 15, 1982 at the above address. The proposed amendment is subject to revisions after the department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Hunsaker at (515) 281-8093 or at the above address.

These rules are intended to implement Iowa Code sections 97C.2, 97C.5, 97C.6, 97C.11 and 97C.18.

The following amendments are proposed.

ITEM 1. Amend subrule 9.4(4) to read as follows:

9.4(4) Any employing unit which terminates for any reason whatsoever shall provide the IPERS office with the following:

- Complete name and address of the dissolved entity.
- Assigned **IPERS** social security account number.
- Last date on which wages were paid.
- Date on which the entity dissolved.
- Reason for the dissolution.
- Whether or not the entity expects to pay wages in the future.

g. Name and address of absorbing employing unit if applicable.

This rule is intended to implement Iowa Code section 97C.18.

ITEM 2. Amend subrules 9.5(1) and 9.5(3) to read as follows:

9.5(1) Wages mean all compensation earned by employees, including the cash value of wage equivalents such as room, board, etc. Salaries, fees, bonuses and wage equivalents are all wages if they are paid as compensation for employment. Wage equivalents ~~are~~ *may or may not be* taxable under social security. Wages paid in any form other than money are measured by the fair market value of the room, meals or other wage equivalents.

9.5(3) Effective January 1, 1981, wages will be reported on an annual basis using forms prescribed by the IPERS office. Reports shall show all covered wages paid during the calendar year up to the maximum established by Social Security Administration for that year. Reports are to be filed by the ~~fifteenth day of January~~ *twenty-eighth day of February* to be considered timely and free from interest.

This rule is intended to implement Iowa Code section 97C.2.

ITEM 3. Amend subrule **9.6(5)**, paragraphs "b" and "c" to read as follows:

b. Any worker may have an account number changed at any time by applying to a field office of the social security administration and showing good reason for a change. Any worker whose name is changed by marriage or otherwise, or who has stated incorrect information on form SS-5, should report the change or correction to a field office of the social security administration. ~~Copies of the form OAAN-7003, employee's request for change in records, may be obtained from any field office of the social security administration, (or the administrative office of the Iowa department of job service).~~

ARC 3146**EMPLOYMENT SECURITY[370]**

(JOB SERVICE)

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code Section 97C.18, the Iowa Department of Job Service hereby gives Notice of Intended Action to amend Chapter 9, "Federal Social Security", Iowa Administrative Code.

These rule changes are: Item 1 — Deletes the reference to the IPERS account number and inserts the reference to the social security account number. Item 2 — Provides that wage equivalents may or may not be taxable at the determination of the department and changes the taxable period from quarterly to yearly. Items 3 and 4 — Deletes sections of the rule which are no longer applicable. Item 5 — Changes payable reference to monthly, reduces extension period for late payment from thirty to twenty-five days, redefines the contribution reporting requirements

EMPLOYMENT SECURITY[370] (cont'd)

c. Any worker who has more than one social security account number shall report all numbers to the field office of the social security administration nearest the worker's place of employment, (to a public employment office; or to the area claims office).

This rule is intended to implement Iowa Code sections 97C.18 and 97C.2.

ITEM 4. Rescind subrule 9.6(6) in its entirety.

ITEM 5. Amend subrule 9.7(3) to read as follows:

9.7(3) Any employing unit who pays wages during a month must forward the social security contributions deducted from those wages plus the employer's share of contributions on a monthly basis. Remittance for each month is due in full on or before the fifteenth day of the following month. The balance of the contributions due for the year must be remitted with the annual report on or before the due date established for the annual report. Any employer filing reports for two or more entities shall attach to each monthly deposit form the checks covering the contributions due on that form. The combining of contributions due for payment into one check or multiple checks will not be accepted. Improperly paid contributions are considered as unpaid.

This rule is intended to implement Iowa Code sections 97C.5, 97C.6 and 97C.11.

ITEM 6. Amend rule 9.8 to read as follows:

370-9.8(97C) Accrual of interest. Interest as provided under Iowa Code chapter 97 of the Code, shall accrue on any contributions not paid by the due date. There shall be assessed a penalty of six percent a year at the same percentage rate charged by the social security administration from the due date until payment is received by IPERS.

This rule is intended to implement Iowa Code section 97C.18.

Action to amend Chapter 10, "Forms", Iowa Administrative Code.

This rule change is to add new and delete outdated forms used by Job Service.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendment not later than 4:30 p.m., September 7, 1982, to James A. Hunsaker III, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., September 15, 1982, at the above address. The proposed amendment is subject to revisions after the department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Hunsaker at (515) 281-8093 or at the above address.

These rules are intended to implement Iowa Code sections 96.11(1) and 17A.3.

The following amendment is proposed.

Amend rule 370-10.9(97C) to read as follows:

370-10.9(97C) Federal social security-forms. Forms and instructions are developed by the department to aid reporting officials of various entities in discharging their duties under the federal-state agreement which provides for social security coverage for public employees in Iowa. The material contained in the forms and instructions in handbooks is designed to assist employers in providing an orderly accumulation of data for an accurate report. Those forms and instructions may be obtained from the Iowa Department of Job Service IPERS, 1000 E. Grand Avenue, Des Moines, Iowa 50319. The paragraphs which follow list and describe those forms and instructions which reporting officials use when dealing with social security reporting to IPERS the Iowa department of job service. Each direction of every instruction shall be complied with and each item in every form filled in or answered in the same manner as if the forms and instructions were embodied in these rules.

Form No.	Name and description of form
SSA-3963 W-3 S&L	Social security (FOAB) wage return. Used by each employer to report total name and social security number and taxable wages for each all covered employees.
SSA-3963A	Social security (FOAB) wage return continuation sheet.
SSA-3964 W-2C	Social security (FOAB) wage adjustment report. Filed when corrections are necessary on individual wage items that have already been reported.
IPERS 565	OAD-S3 debit memo W-3 S&L debit memo. Informs employer of errors on the OAD-S3 report and the amount now due. This form is returned with payment and or wage corrections.
IPERS 566	OAD-S3 W-3 S&L credit memo. Informs employer of errors on the OAD-S3 report and is attached to the next OAD-S3 monthly report, IPERS 580, to receive credit.

This rule is intended to implement Iowa Code sections 96.11(1) and 17A.3.

ARC 3147

EMPLOYMENT SECURITY[370]

(JOB SERVICE)

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code Section 97B.15, the Iowa Department of Job Service hereby gives Notice of Intended

ARC 3109

HEALTH DEPARTMENT[470]

BOARD OF CHIROPRACTIC EXAMINERS NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 147.76 and Chapter 258A, the Board of Chiropractic Examiners gives Notice of Intended Action to amend Chapter 141 of the IAC.

Items 1 through 4 are being amended to reflect the latest update of the standards and bylaws set by the Council on Chiropractic Education.

Items 5 and 6 are being amended to implement the Iowa Code.

Items 7 and 8 are being amended to provide clarity.

Any person, government agency or association may submit written comment to Harriett Miller, Board of Chiropractic Examiners, 215 East 7th, Des Moines, Iowa 50319 or make comment by telephone to 281-4416 not later than 4:30 p.m., September 7, 1982.

These proposed rules are intended to implement Iowa Code sections 147.7, 147.9, 147.10, 151.4 and 258A.2.

ITEM 1. Subrule 141.11(1) is amended to read as follows:

141.11(1) Rules pertaining to the practice of chiropractic at a chiropractic college clinic shall be equal to the standards established by the Council of Chiropractic Education existing as of May 1, ~~1981~~ 1982 or one that meets equivalent standards thereof.

ITEM 2. Subrule 141.11(2) is amended to read as follows:

141.11(2) All chiropractic colleges in order to be approved by the board of chiropractic examiners shall first have status with the Commission on Accreditation of the Council on Chiropractic Education as recognized by the U.S. Office of Education existing as of May 1, ~~1981~~ 1982 or one that meets equivalent standards thereof.

ITEM 3. Subrule 141.11(3) paragraph "a" is amended to read as follows:

a. Standards. The standards against which the institution will be evaluated shall be equivalent to, or exceeding those published and utilized by the Council of Chiropractic Education existing as of May 1, ~~1981~~ 1982.

ITEM 4. Subrule 141.13(6) is amended to read as follows:

141.13(6) All applicants matriculating after October 1, 1975 will be a graduate from a college having status with the C.C.E. (Council on Chiropractic Education) or its successor, or from a college which meets or exceeds equivalent standards thereof existing as of May 1, ~~1981~~ 1982.

ITEM 5. Rule 141.12(151) is amended by adding the following new subrules:

141.12(7) Every person licensed to practice chiropractic shall keep his or her license publicly displayed in the place in which he or she practices, and when a person licensed to practice chiropractic changes residence, noti-

fication shall be sent to the Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 147.7 and 147.9.

141.12(8) Every license to practice chiropractic shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee, without exception. Application for renewal shall be made in writing to the board accompanied by the required fee at least thirty days prior to the expiration of the license. Every renewal shall be displayed in connection with the original license. The board shall notify each licensee by mail prior to the expiration of a license. Failure to renew the license within a reasonable time after the expiration shall not invalidate the license, but a reasonable penalty may be assessed by the board.

This rule is intended to implement Iowa Code section 147.10.

ITEM 6. Subrule 141.64(1) is amended by striking the first three lines following paragraph "d" and inserting in lieu thereof the following:

By January 31 of each year, commencing January 31, 1980, all accredited sponsors shall submit a report in writing to the board disclosing the educational programs provided for Iowa licensees during the preceding calendar year including dates, titles and hours of instruction provided each licensee in a form approved by the board.

ITEM 7. Rule 470—141.68(258A) is amended to read as follows:

470—141.68(258A) Attendance report. The person or organization sponsoring continuing education shall make a written record of the Iowa licensees in attendance *at each activity* and send a signed copy of such attendance record to the executive secretary of the board upon completion of the educational activity, but in no case later than February 1 of the following calendar year.

ARC 3125

HEALTH DEPARTMENT[470]

BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Sections 147.76, 147.80, and 258A.2, the Board of Speech Pathology and

HEALTH DEPARTMENT[470] (cont'd)

Audiology Examiners gives Notice of Intended Action to amend Chapters 155 and 156 of the Iowa Administrative Code.

The proposed rules require that the national teacher examination be taken and passed within five years of the application and require that a temporary clinical license be issued before obtaining credit for clinical experience, clarify that hours of continuing education will not be carried over, change the time of the report of continuing education activities, reduce the number of hours of continuing education required for reinstatement, and reduce the fee for a temporary clinical license.

Any interested person may make written comments concerning the proposed rules not later than 4:30 p.m. September 9, 1982 addressed to Peter J. Fox, Hearing Officer, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

These proposed rules are intended to implement Iowa Code section 258A.2.

ITEM 1. Subrule 155.3(1) is amended to read as follows:

155.3(1) *No person shall engage in the practice of speech pathology or audiology unless the person has obtained from the state department of health a license or a temporary clinical license. Licenses issued by the board shall be for licensure by examination, except as provided by rule 155.5(147).*

ITEM 2. Subrule 155.3(3), paragraph "e" is amended to read as follows:

e. Results of the national teacher examination as described in rule 155.4(147). *An applicant who has not taken and received a passing grade in the national teacher examination within five years prior to the making of an application for a license in Iowa, shall retake the examination and receive a passing grade as a condition to licensure in Iowa.*

ITEM 3. Subrule 155.3(4) is amended to read as follows:

155.3(4) *A person who wishes to practice speech pathology or audiology in Iowa under the supervision of an Iowa licensed speech pathologist or audiologist for the purpose of obtaining clinical experience as a prerequisite for permanent licensure shall apply to the board for a temporary clinical license prior to obtaining clinical experience.*

To fulfill requirements for a temporary clinical license, the applicant must submit all materials and information as provided in subrule 155.3(3) with the exception of the following substitution for paragraphs "c" and "e". A notarized statement of a plan of action to complete at least nine months of full-time clinical experience, or equivalent, under the supervision of an Iowa licensed speech pathologist or audiologist, as appropriate, shall be submitted. Such verification shall be signed by the licensed supervisor and notarized.

ITEM 4. Rule 470—155.6(147) is amended to read as follows:

470—155.6(147) Supervision of temporary clinical license-holders. A temporary clinical license shall be issued only upon evidence that the applicant will be

supervised by a person licensed in Iowa as a speech pathologist or audiologist as appropriate. The board shall revoke any temporary clinical license at any time it shall determine either that the work done by the temporary clinical licensee or the supervision being given the temporary clinical licensee does not conform to reasonable standards.

ITEM 5. Subrule 155.7(1) is amended to read as follows:

155.7(1) *The application fee for all licenses except a temporary clinical license shall be fifty dollars. The application fee for a temporary clinical license is twenty-five dollars.*

ITEM 6. Subrule 155.7(2) is amended to read as follows:

155.7(2) *The fee for biennial renewal of all licenses except temporary clinical license shall be fifty dollars. The annual renewal fee for a temporary clinical license is twenty-five dollars.*

ITEM 7. Subrule 156.2(4) is rescinded and the following adopted in lieu thereof:

156.2(4) Hours of continuing education shall not be carried over into the continuing education period beginning September 1, 1983 or subsequent thereto.

ITEM 8. Subrule 156.4(1) paragraph "b" is rescinded and the following adopted in lieu thereof:

b. At the close of each continuing education compliance period and not later than September 1 of each odd-numbered year, all accredited sponsors shall report to the board, on a form approved by the board, a summary of that year's continuing education activities.

ITEM 9. Rule 470—156.6(258A) is amended to read as follows:

470—156.6(258A) Report of licensee. Each licensee shall file a signed report, on a form provided by the board, no later than October 1 of the year following the continuing education compliance year in which the continuing education hours were completed each odd-numbered year. The report shall include the following information: Title of continuing education activity, date(s), provider of activity, type of activity, name(s) of instructor(s) and continuing education hours earned. The licensee's signature upon this form shall be regarded as verification that the licensee did in fact attend and participate in the activities listed. A licensee who elects to take the licensing examination in lieu of earning continuing education credits shall have the results of the examination sent to the board by the agency administering the examination.

ITEM 10. Subrule 156.9(2), paragraph "b" is amended to read as follows:

b. Completion of a total number of hours of accredited continuing education computed by multiplying *twenty fifteen* by the number years of a waiver of compliance shall have been in effect for such applicant; or

ARC 3142

**IOWA FAMILY FARM
DEVELOPMENT AUTHORITY[523]
NOTICE OF INTENDED ACTION — HEARING**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)*b*.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 175.6(14), the Iowa Family Farm Development Authority hereby gives Notice of Intended Action to adopt rules creating a new chapter 4 of the Iowa Administrative Code, "Soil Conservation Loan Program." The substance of these rules was submitted as an emergency adopted rule, ARC 3141,* published in the Iowa Administrative Bulletin on August 18, 1982.

The purpose of this notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

Any interested persons may make written suggestions or comments on this proposed rule prior to September 9, 1982. Such written materials should be directed to the Executive Administrator, Iowa Family Farm Development Authority, 550 Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Executive Administrator, Iowa Family Farm Development Authority at (515)281-6444.

There also will be a public hearing on September 9, 1982 at 10:30 a.m. at 550 Liberty Building, 418 Sixth Avenue, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing. Person who wish to make oral presentations at the public hearing should contact the Executive Administrator of the Iowa Family Farm Development Authority at least one day prior to the date of the public hearing.

*See ARC 3141 herein.

ARC 3123

**LABOR, BUREAU OF[530]
TERMINATION OF NOTICE**

Pursuant to the authority of Iowa Code Section 88.5, Notice of Intended Action was given to amend IAC 530—5.7(88) and 530—5.8(88) concerning procedures for applications relating to variances. The notice was published in the September 2, 1981, IAB as ARC 2272. This rulemaking is being terminated because more than 180 days have passed since publication of the Notice of Intended Action.

ARC 3151

**REVENUE DEPARTMENT[730]
NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)*b*.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Sections 421.14 and 17A.15(3), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 7, "Practice and Procedure Before the Department of Revenue," Iowa Administrative Code.

The proposed amendment is made for clarification purposes. Occasionally a hearing officer may render a proposed decision which will interject new issues not raised by the parties in the contested case. A hearing officer may also raise an issue or reach a proposed decision which is not supported by evidence or reach a proposed decision which is outside the realm of the hearing officer's jurisdiction. A literal reading of the rule in its present form might be interpreted to indicate that such errors cannot be appealed to the director because the errors are based on issues which were not presented in the contested case proceeding. The new language would clarify that the director can review anything in the hearing officer's proposed decision.

Any interested person may make written suggestions or comment on this proposed amendment on or before September 17, 1982. Such written comments should be directed to the Deputy Director, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Deputy Director at (515) 281-3346 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 1982.

This rule is intended to implement Iowa Code chapter 17A.

The following amendment is proposed.

Subrule 7.17(5) is amended as follows:

7.17(5) Orders. At the conclusion of the hearing, the hearing officer, in his or her discretion, may request the parties to submit proposed findings of fact and conclusions of law. Upon the request of any party, the hearing officer shall allow the parties an opportunity to submit proposed findings of fact and conclusions of law.

The decision in a contested case is an order which shall be in writing or stated in the record. The order shall include findings of fact prepared by the person presiding at the hearing unless he or she is unavailable and based solely on the evidence in the record and on matters officially noticed in the record and shall include conclusions of law. The findings of fact and conclusions of law shall be separately stated. Findings of fact shall be prefaced by a concise and explicit statement of underlying facts supporting the findings. If a party has submitted proposed findings of fact the order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion.

REVENUE DEPARTMENT[730] (cont'd)

When a motion has been made to delete identifying details in an order on the basis of personal privacy or trade secrets, the justification for such deletion or refusal to delete shall be made by the moving party and shall appear in the order.

When the director initially presides at a hearing or considers decisions on appeal from, or review of the administrative hearing officer, the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to, or review on motion of a second agency within the time provided by statute or rule. When an administrative hearing officer presides at the hearing the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to, or review on motion of, the director within thirty days of the date of the order, or ten days, excluding Saturdays, Sundays, and legal holidays, for a revocation order pursuant to rule 730—7.24(17A). On an appeal from or review of the administrative hearing officer's order, the director has all the power which he or she would initially have had in making the decision, however, he or she will only consider those issues or selected issues presented at the hearing before the administrative hearing officer *or any issues of fact or law raised independently by the hearing officer, including the propriety of and the authority for raising issues*. The parties will be notified of those issues which will be considered by the director.

Orders will be issued within thirty days of the termination of the hearing unless good cause exists for a further period of time not to exceed a reasonable period. Parties shall be promptly notified of each order by delivery to them of a copy of such order by personal service or certified mail return receipt requested.

This rule is intended to implement Iowa Code chapter 17A.

Income Tax," Iowa Administrative Code. Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2362, changed the provisions for assessing a failure to pay penalty so that it is based on a ninety percent test. The amendments are therefore made to amend the department's income, corporation, franchise, inheritance, estate, generation skipping and fiduciary income tax rules relating to the penalty provisions.

Any interested person may make written suggestions or comment on these proposed amendments on or before September 17, 1982. Such written comments should be directed to the Deputy Director, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Deputy Director at (515) 281-3346 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 1982.

These rules are intended to implement Iowa Code sections 422.25, 422.16, 422.88, 422.91 and 450.5, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2362.

The following amendments are proposed.

ITEM 1. Amend subrule 44.3(2) by striking the entire subrule and inserting in lieu thereof the following:

44.3(2) Computation for tax payments due on or after January 1, 1982. The filing of the return within the period prescribed by law and the payment of the tax required to be shown thereon, are simultaneous acts and if either condition is not met, a penalty shall be assessed unless it is shown that such failure was due to reasonable cause.

Section 422.25 provides a penalty of five percent per month, not to exceed twenty-five percent in the aggregate, for the failure to file a return or for the failure to pay at least ninety percent of tax required to be shown due. In case there is both a failure to file and a failure to pay, the penalty for failure to file shall be in lieu of the penalty for failure to pay. However, the imposition of the penalty for failure to file does not preclude the imposition of a penalty for failure to pay, if after the return is filed, there is a continued failure to pay at least ninety percent of the tax during the five-month period after the tax was due (taking into consideration any extensions of time to file a return). The combined penalties for failure to file or pay shall not exceed twenty-five percent of the tax due. The penalties are computed on the amount of the tax remaining unpaid that is required to be shown as due on the return as distinguished from the amount of the tax shown to be due on the return.

In considering if penalty should be assessed for failure to pay, it must be determined whether tax payments and credits equal or exceed ninety percent of the tax required to be shown on the return. Tax required to be shown on the return is defined as those taxes required to be computed under Iowa Code section 422.5 (income tax, lump sum tax, and minimum tax) plus school district surtax less the nonrefundable credits (exemption and child care credit) allowed under Iowa Code section 422.12. Tax payments or credits to be applied against the tax required to be shown on the return are (1) Iowa income taxes withheld, (2) Iowa estimate tax payments, (3) out-of-state tax credits, (4) motor vehicle fuel tax credits, (5) tax payments made prior to the filing of the return, and (6) any tax payment made with the return.

ARC 3152**REVENUE DEPARTMENT[730]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Sections 421.14 and 422.68(1), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 44, "Penalty and Interest," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Chapter 86, "Inheritance Tax," Chapter 87, "Iowa Estate Tax," Chapter 88, "Generation Skipping Transfer Tax," and Chapter 89, "Fiduciary

REVENUE DEPARTMENT[730] (cont'd)

Therefore, if an audit results in additional tax which was required to be shown as due on the return by the due date (taking into consideration any extension of time to file a return), so that less than ninety percent of the tax was paid, the additional tax is subject to penalty for failure to pay, unless the failure was due to reasonable cause. All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amounts of tax then due in the order specified.

In addition to the penalty computed above, there shall be added interest as provided by law from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, considering each fraction of a month as an entire month.

ITEM 2. Rule 730—44.3(422) is amended by adding the following new subrule as follows:

44.3(3) Examples to illustrate the computation of penalties for tax payments due on or after January 1, 1982. The following are examples to illustrate the computation of penalties imposed under subrule 44.3(2). For the purposes of these examples only, interest has been computed at the rate of one and four-tenths of one percent per month. In addition, for the purpose of these examples, the tax due amounts are assumed to be the total amounts required to be shown due when considering whether failure to pay penalties should be assessed on the basis that less than ninety percent of the tax was paid.

Example (a) - Delinquent Return

- a. Tax due is \$100
- b. Return filed 3 months and 10 days after the due date.
- c. \$100 paid with the return

The calculation for additional tax due is shown below:

Tax	\$100.00
Penalty	20.00 (20% failure to file penalty)
Interest	5.60 (4 months interest)
Total	\$125.60
Less Payment	100.00
Additional Tax Due	\$25.60

The computation below shows the total amount due if payment for the additional tax due is not received until six months after the due date of the return. The example assumes the \$25.60 was assessed by the Department during the fourth month.

Additional Tax	\$25.60
Penalty	1.28 (5% failure to pay penalty)
Interest	.72 (2 months interest)
Total Due	\$27.60

The maximum penalty cannot exceed 25%.

Example (b) - Timely Filed No Remit

- a. Tax due is \$100
- b. Return was timely filed.
- c. \$0 paid.

The calculation for the total amount due five months after the due date is shown below:

Tax	\$100.00
Penalty	25.00 (the maximum failure to pay penalty - 25% is assessed)
Interest	7.00 (5 months interest)
Total	\$132.00

Example (c) - Late Filed No Remit

- a. Tax due is \$100
- b. Return is filed 2 months and 10 days after the due date.
- c. \$0 paid.

The calculation for the total amount due three months after the due date is shown below:

Tax	\$100.00
Penalty	15.00 (15% for failure to file)
Interest	4.20 (3 months interest)
Total Due 3rd Mo.	\$119.20

The computation below shows the total amount due if the return was filed in the third month, but payment was not received until the sixth month after the due date.

Total Due 3rd Mo.	\$119.20
Penalty	10.00 (10% for failure to pay)
Interest	4.20 (additional 3 months interest)
Total	\$133.40

The maximum penalty of 25% is assessed.

Example (d) - Timely Filed Partial Payment

- a. Tax due is \$100
- b. Return was timely filed.
- c. \$75 is paid with the return.

The calculation for the total amount due five months after the due date is shown below:

Tax	\$100.00
Less Payment	75.00
Amount Due	\$25.00
Additional Tax	\$25.00
Penalty	6.25 (the maximum failure to pay penalty is assessed 25%)
Interest	1.75 (5 months interest)
Total Due 5th Mo.	\$33.00

Example (e) - Late Filed Partial Payment

- a. Tax due is \$100
- b. Return is filed 1 month and 10 days after the due date.
- c. \$75 is paid with the return.

The calculation for the additional tax due is shown below:

Tax	\$100.00
Penalty	10.00 (10% failure to file penalty)
Interest	2.80 (2 months interest)
Total Due	\$112.80
Less Payment	75.00
Additional Tax Due	\$37.80

The computation below shows the total amount due if payment for the additional tax is not received until six months after the due date of the return.

REVENUE DEPARTMENT[730] (cont'd)

Additional Tax	\$ 37.80
Penalty	5.67 (15% failure to pay penalty)
Interest	2.12 (4 months additional interest)
Total Due 6th Mo.	\$ 45.59

The maximum penalty of 25% is assessed.

Example (f) - Audit on Timely Filed Return

- \$100 in additional tax found due.
- Timely filed return.
- Audit completed 8 months after the due date of the return.
- Return showed \$100 as the computed tax, which was paid with the return.

The computation for the total amount due is shown below:

Computed tax after audit	\$200.00
Less tax paid with return	100.00
Additional tax due	100.00
Penalty (maximum failure to pay penalty - 25%)	25.00
Interest	11.20 (8 months interest)
Total due	\$336.20

Failure to pay penalty was assessed since the amount actually paid timely was less than ninety percent of the tax required to be shown due.

Example (g) - Audit on Timely Filed Return - NinetyPercent of the Tax Required Paid Timely

- \$100 in additional tax found due.
- Timely filed return
- Audit completed 8 months after the due date of the return.
- Return showed \$1,900 as computed tax, which was paid with the return.

Computed Tax After Audit	\$2,000.00
Less Tax Paid with Return	1,900.00
Additional Tax Due	\$ 100.00
Interest	11.20 (8 months interest)
Total Due	\$ 111.20

No penalty was assessed in the above case because at least ninety percent of the tax required to be paid with the return was paid timely.

Example (h) - Audit on Late Filed Return

- \$100 in additional tax found due.
- Return was filed 10 days after the due date.
- Penalty and interest, as well as tax, were paid with the return.
- \$100 shown as tax due when the return was filed.
- Audit was completed 8 months after the due date of the return.

The computation for the total amount due is shown below:

Tax	\$200.00
Penalty	10.00 (5% failure to file)
Interest	2.80 (1 months interest)
Total Due	\$212.80
Less Payment	106.40
Additional Tax Due	\$106.40
Penalty	21.28 (20% failure to pay)
Interest	10.43 (7 months additional interest)
Total Due	\$138.11

Example (i) - Audit on Late Filed Return - NinetyPercent of the Tax Paid When Return was Filed.

- \$100 in additional tax found due.
- Return was filed 10 days after the due date.
- Penalty and interest, as well as tax were paid with the return.
- Return showed \$1,900 as the computed tax.
- Audit was completed 8 months after the due date of the return.

The computation for the total amount due is shown below:

Tax	\$2,000.00
Penalty	100.00 (5% failure to file)
Interest	28.00 (1 months interest)
Total Due	\$2,128.00
Less Payment	2,021.60
Additional Tax Due	\$ 106.40
Interest	10.43 (7 months additional interest)
Total Due	\$ 116.83

Failure to pay penalty was not assessed, since the amount paid when the return was late filed was ninety percent or more of the amount required to be shown due.

Example (j) - Audit on Late Filed Partial Pay Return

- \$100 in additional tax found due.
- Return was filed 10 days after the due date.
- \$75 was paid with the return.
- \$100 tax shown as due on the return.
- Audit completed 8 months after the due date of the return.

The computation for the total amount due is shown below:

Tax	\$200.00
Penalty	10.00 (5% penalty for failure to file)
Interest	2.80 (1 months interest)
Total Due	\$212.80
Less Payment	75.00
Additional Tax Due	\$137.80
Penalty	27.56 (20% penalty for failure to pay)
Interest	13.50 (7 months additional interest)
Total Due	\$178.86

Example (k) - Audit No Return Filed

- \$200 tax found due.
- No return filed.
- Audit completed 8 months after the due date of the return.

The computation for the total amount due is shown below:

Tax	\$200.00
Penalty	50.00 (25% penalty for failure to file)
Interest	22.40 (8 months interest)
Total Due	\$272.40

The failure to file penalty provision is assessed since both the failure to file and failure to pay occurred simultaneously.

Example (l) - Audit on Late Filed No Remit Return

- \$100 claimed as tax on the return.
- \$100 in additional tax found due.

REVENUE DEPARTMENT[730] (cont'd)

c. Return filed four months and ten days after the due date.

d. Audit completed 11 months after the due date.

The computation for the total amount due is shown below:

Tax	\$200.00	
Penalty	50.00	(25% penalty for failure to file)
Interest	30.80	(11 months interest)
Total Due	\$280.80	

25% penalty for failure to file is applicable to the \$100 claimed as tax on the return and the \$100 found to be due by audit. The failure to pay penalty cannot be imposed since the failure to file penalty has reached the maximum 25%.

Example (m) - Audit on Late Filed No Remit Return

- a. \$100 claimed as tax on the return.
- b. \$100 in additional tax found due.
- c. Return filed one month and ten days after the due date.
- d. Audit completed 11 months after the due date.

The computation for the total amount due is shown below:

Tax	\$200.00	
Penalty-Failure to File	20.00	
Penalty-Failure to Pay	30.00	
Interest	30.80	(11 months interest)
Total Due	\$280.80	

A 10% penalty for failure to file is applied to the \$200 total tax owed. A failure to pay penalty of 15% is imposed for the remaining three months of the penalty period.

Example (n) - Late Filed Return With Extension, No

Remit

- a. Tax due is \$100.
- b. Taxpayer has valid extension through October 31.
- c. Return was filed October 31, with no payment.

The calculation for the total amount due two months after the return was filed is shown below:

Tax	\$100.00	
Penalty	10.00	(10% failure to pay penalty)
Interest	11.20	(8 months interest)
Total	\$121.20	

No penalty is assessed during period of extension. Penalty for failure to pay is assessed on the unpaid tax at a rate of 5% from the extended due date (October 31) until the tax is paid, not to exceed 25%.

Example (o) - Return Filed During Period of Extension

Without Payment of Interest

- a. Tax owed is \$2,000.
- b. Taxpayer has valid extension through October 31.
- c. \$2,000 paid with the filing of the return on October 31.

d. Audit is performed six months after filing date.

Tax	\$2,000.00	
Interest	168.00	(6 months interest)
Total	\$2,168.00	
Less Payment	2,000.00	
Additional Tax Due	\$168.00	
Interest	14.11	(6 months additional interest)
Total Due	\$182.11	

No failure to pay penalty was assessed because at least ninety percent of the tax due was paid by the extended due date of October 31st.

Example (p) - Audit of Timely Filed Return With

Extension

- a. \$100 in additional tax found due.
- b. Extension of 3 months was requested and approved.
- c. \$100 in estimated tax paid with the extension.
- d. Return filed 2 months after the original due date showing tax due of \$100. (Filed timely in extension period).
- e. Audit completed 4 months after filing date.

The computation for the total amount due is shown below:

Computed Tax After Audit	\$200.00	
Less Paid With Extension	100.00	
Additional Tax Due	\$100.00	
Penalty (15% for failure to pay penalty)	15.00	
Interest (6 months)	8.40	
Total Due	\$123.40	

Failure to pay penalty does not begin to accrue until after the extension period.

Example (q) - Audit of Return Where Payment With

Return Does Not Exceed Penalty and Interest

- a. \$100 in additional tax found due
- b. Return was filed 1 month and 15 days after the due date.
- c. Return shows \$10 as the computed tax which was paid when the return was filed.

The calculation for the additional amount due after the filing of the return is shown below:

Computed tax after Audit	\$110.00	
Penalty (10% failure to file penalty)	11.00	
Interest	3.08	(2 months interest)
Total Due With Return	\$124.08	
Less Paid With Return	10.00	
Computed Tax After Payment		\$110.00
Penalty Remaining After Payment	1.00	
Interest After Payment	3.08	
Balance Remaining After Payment with Return	\$114.08	

The computation below shows the total amount due if the payment for the additional tax due is not received until six months after the due date of the return.

REVENUE DEPARTMENT[730] (cont'd)

Tax Remaining Due	\$110.00	
Penalty (15% failure to pay penalty)	16.50	
Interest	6.16	(4 months additional interest)
Penalty (balance of failure to file penalty)	1.00	
Interest (amount due with filing of return)	3.08	
Total Due 6th Month	\$136.74	

Example (r) - Two Audits of a Return Where the First Audit Results in a Refund, and the Second Audit Results in an Assessment

- a. \$250 was paid during the year as estimated tax payments.
- b. Return was filed timely showing \$100 as the computed tax due, \$50 to be credited against the next year's estimated payments and \$100 to be refunded in a warrant to the taxpayer.
- c. Return was audited within 30 days of filing, all information was found to be correct and the \$100 was refunded (without interest).
- d. Eight months after the due date of the original return, taxpayer filed an amended Iowa return, due to an amended federal return, showing \$300 as the computed tax due and paying \$200 with the amended return.
- e. Audit completed two months after the filing of the amended return.

The computation for the additional amount due after the filing of the amended return is shown below:

Computed Tax from Audit	\$300.00
Less Estimated Tax Payments	250.00
Additional Tax Due	\$ 50.00
Penalty 25% for Failure to Pay	12.50
Plus Amount Refunded	100.00
Plus Credit to Estimate Tax	50.00
Plus Interest on Additional Amount Due, on Amount Refunded and on Amount Credited to Estimate Tax	22.40

Total Due when Amended Return Was Filed	\$234.90
Less Payment with Amended Return	200.00
Additional Tax Due	\$ 34.90
Interest 2.8% (two months)	.98
Total Due	\$ 35.88

Penalty can be imposed only upon the additional tax due after consideration of all timely payments and credits.

Example (s) - Return Filed For Refund That Results in a Tax Liability

- a. Return was filed timely showing total tax payments of \$1,500 (income tax withheld of \$400, estimate payments of \$800 and an out-of-state tax credit of \$300).
- b. Return showed a refund of \$180 as computed tax after nonrefundable credits was \$1,200 and school district surtax was 10% of the income tax liability or \$120.
- c. Processing of the return determined that actual computed tax for the return after nonrefundable credits was \$1,600 and the school district surtax was \$160.

d. Correction of the return was completed three months and ten days after the due date.

The computation for the additional amount due is shown below:

Computed Tax After Correction	\$1,600.00	
Plus School District Surtax	160.00	
Total Tax		\$1,760.00
Less Tax Payments Made Timely		1,500.00
Total Tax		\$ 260.00
Penalty 20% for Failure to Pay		52.00
Interest (4 months interest)		14.56
Tax Due		\$ 326.56

Failure to pay penalty was assessed because the tax payments made timely of \$1,500 did not constitute payment of at least ninety percent of the tax required to be shown on the return of \$1,760.

Example (t) - Two Audits of a Return Where the First Audit Results in an Assessment, and the Second Audit Results in an Overpayment

- a. \$900 was paid during the year as an estimate tax payment.
- b. Return was filed timely showing \$850 as the computed tax and \$50 to be refunded.
- c. Return was reviewed in the second month after the due date and it was determined that the correct computed tax was \$1,200. An assessment for the additional amount due is shown below:

Computed Tax From Audit	\$1,200.00
Less Estimated Tax Payments	900.00
Additional Tax Due	\$ 300.00
Penalty 10% for Failure to Pay	30.00
Interest (2 months interest)	8.40
Total Due	\$ 338.40

d. Taxpayer paid assessment in full in the same month as the assessment was made.

e. Six months after the due date, the taxpayer submitted an amended return, showing \$950 as the computed tax due.

f. Audit of the amended return completed two months after the filing of the amended return.

The computation of the overpayment after the filing of the amended return is shown below:

Computed Tax From Audit	\$ 950.00
Less Estimated Tax Payments	900.00
Additional Tax Due	\$ 50.00
Interest (2 months interest)	1.40
Total Due with Return	\$ 51.40
Less: Payment	338.40
Overassessment	\$ 287.00
Interest (5 months interest)	20.09
Total Overpayment	\$ 307.09

The failure to file penalty was not imposed in the computation of the overpayment from the audit. The penalty was not imposed, since the tax that had been paid timely was at least ninety percent of the tax required to be shown.

ITEM 3. Amend subrule 52.5(4) by striking the entire subrule and inserting in lieu thereof the following:

52.5(4) Computation for tax payments due on or after January 1, 1982. The filing of the return within the period

REVENUE DEPARTMENT[730] (cont'd)

prescribed by law and the payment of the tax required to be shown thereon are simultaneous acts and if either condition is not met, a penalty shall be assessed unless it is shown that such failure was due to reasonable cause.

Section 422.25 provides a penalty of five percent per month, not to exceed twenty-five percent in the aggregate, for the failure to file a return or for the failure to pay at least ninety percent of tax required to be shown due. In case there is both a failure to file and a failure to pay, the penalty for failure to file shall be in lieu of the penalty for failure to pay. However, the imposition of the penalty for failure to file does not preclude the imposition of a penalty for failure to pay, if after the return is filed, there is a continued failure to pay at least ninety percent of the tax during the five-month period after the tax was due (taking into consideration any extensions of time to file a return). The combined penalties for failure to file or pay shall not exceed twenty-five percent of the tax due. The penalties are computed on the amount of the tax remaining unpaid that is required to be shown as due on the return as distinguished from the amount of the tax shown to be due on the return.

In considering if penalty should be assessed for failure to pay, it must be determined whether tax payments and credits equal or exceed ninety percent of the tax required to be shown on the return. Tax required to be shown on the return is defined as those taxes required to be computed under division III of Iowa Code chapter 422 (income tax and minimum tax). Tax payments or credits to be applied against the tax required to be shown on the return are (1) Iowa estimate tax payments, (2) motor vehicle fuel tax credits, (3) tax payments made prior to the filing of the return, and (4) any tax payment made with the return.

Therefore, if an audit results in additional tax which was required to be shown as due on the return by the due date (taking into consideration any extension of time to file a return), so that less than ninety percent of the tax was paid, the additional tax is subject to penalty for failure to pay, unless the failure was due to reasonable cause. All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amounts of tax then due in the order specified.

In addition to the penalty computed above, there shall be added interest as provided by law from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, considering each fraction of a month as an entire month. See rule 730-10.2(421) for the statutory interest rate commencing on or after January 1, 1982.

For examples on application of penalties, refer to subrule 44.3(3).

ITEM 4. Amend subrule 58.5(4) by striking the entire rule and inserting in lieu thereof the following:

58.5(4) Computation for tax payments due on or after January 1, 1982. The filing of the return within the period prescribed by law and the payment of the tax required to be shown thereon are simultaneous acts and if either condition is not met, a penalty shall be assessed unless it is shown that such failure was due to reasonable cause.

Section 422.25 provides a penalty of five percent per month, not to exceed twenty-five percent in the aggregate, for the failure to file a return or for the failure to pay at least ninety percent of tax required to be shown due. In

case there is both a failure to file and a failure to pay, the penalty for failure to file shall be in lieu of the penalty for failure to pay. However, the imposition of the penalty for failure to file does not preclude the imposition of a penalty for failure to pay, if after the return is filed, there is a continued failure to pay at least ninety percent of the tax during the five-month period after the tax was due (taking into consideration any extensions of time to file a return). The combined penalties for failure to file or pay shall not exceed twenty-five percent of the tax due. The penalties are computed on the amount of the tax remaining unpaid that is required to be shown as due on the return as distinguished from the amount of the tax shown to be due on the return.

In considering if penalty should be assessed for failure to pay, it must be determined whether tax payments and credits equal or exceed ninety percent of the tax required to be shown on the return. Tax required to be shown on the return is defined as those taxes required to be computed under division V of Iowa Code chapter 422 (franchise tax and minimum tax). Tax payments or credits to be applied against the tax required to be shown on the return are (1) Iowa estimate tax payments, (2) tax payments made prior to the filing of the return, and (3) any tax payment made with the return.

Therefore, if an audit results in additional tax which was required to be shown as due on the return by the due date (taking into consideration any extension of time to file a return), so that less than ninety percent of the tax was paid, the additional tax is subject to penalty for failure to pay, unless the failure was due to reasonable cause. All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amounts of tax then due in the order specified.

In addition to the penalty computed above, there shall be added interest as provided by law from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, considering each fraction of a month as an entire month. See rule 730-10.2(421) for the statutory interest commencing on or after January 1, 1982.

For examples on application of penalties, refer to subrule 44.3(3).

ITEM 5. Subrule 86.2(16) is amended by adding the following new paragraph "g".

g. When the taxpayer exercised ordinary business care and prudence in providing for the timely filing of the return and payment of the tax due. What constitutes ordinary business care and prudence must be determined by the particular facts and circumstances in each case. See *Armstrong v. Department of Revenue*, N.W.2d (Iowa 1982).

ITEM 6. Subrule 86.2(17) is amended to read as follows: 86.2(17) What does not constitute reasonable cause. Factors which do not tend to establish reasonable cause are, but not limited to:

a. ~~Negligence of the tax return preparer in timely preparing or mailing the return. The duty of the taxpayer to timely file a return and pay the tax due is a nondelegable responsibility.~~

b. Lack of sufficient liquid assets to timely pay the tax due and file the return, when the taxpayer had ample

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time to request an extension of time to file the return and pay the tax, but failed to do so.

e. Failure to exercise ordinary business care and prudence in providing for the filing of the return and payment of the tax liability within the time prescribed by law.

ITEM 7. Subrule 87.3(10) is amended by adding the following new paragraph "g".

g. When the taxpayer exercised ordinary business care and prudence in providing for the timely filing of the return and payment of the tax due. What constitutes ordinary business care and prudence must be determined by the particular facts and circumstances in each case. See *Armstrong v. Department of Revenue*, N.W.2d (Iowa 1982).

ITEM 8. Subrule 87.3(11) is amended to read as follows:

87.3(11) What does not constitute reasonable cause. Factors which do not tend to establish reasonable cause are, but not limited to:

a. ~~Negligence of the tax return preparer in timely preparing or mailing the return. The duty of the taxpayer to timely file a return and pay the tax due is a nondelegable responsibility.~~

b. Failure to exercise ordinary business care and prudence in providing for the filing of the return and payment of the tax liability within the time prescribed by law.

ITEM 9. Subrule 88.3(15) is amended by adding the following new paragraph "f".

f. When the taxpayer exercised ordinary business care and prudence in providing for the timely filing of the return and payment of the tax due. What constitutes ordinary business care and prudence must be determined by the particular facts and circumstances in each case. See *Armstrong v. Department of Revenue*, N.W.2d (Iowa 1982).

ITEM 10. Subrule 88.3(16) is amended to read as follows:

88.3(16) What does not constitute reasonable cause. Factors which do not tend to establish reasonable cause are, but not limited to:

a. ~~Negligence of the tax return preparer in timely preparing or mailing the return. The duty of the taxpayer to timely file a return and pay the tax due is a nondelegable responsibility.~~

b. Failure to exercise ordinary business care and prudence in providing for the filing of the return and payment of the tax liability within the time prescribed by law.

ITEM 11. Subrule 89.6(4), paragraph "h", is amended to read as follows:

h. Ordinary business care and prudence was exercised to provide for the timely filing of the return and payment of the tax due, but the filing or payment was nevertheless delinquent. *What constitutes ordinary business care and prudence must be determined by the particular facts and circumstances in each case. See Armstrong v. Department of Revenue N.W. 2d, (Iowa 1982). See subrule 44.7(7) for reasonable cause for delinquencies on individual income tax returns.*

ITEM 12. Subrule 89.6(5) is amended to read as follows:

89.6(5) What does not constitute reasonable cause. Factors which do not tend to establish reasonable cause include, but are not limited to:

a. ~~Negligence of the tax return preparer to timely file the return and pay the tax due. The duty of the taxpayer to timely file the return and pay the tax due is a nondelegable responsibility.~~

b. Failure to exercise the generally accepted standards of fiduciary responsibility in providing for the timely filing of the return and payment of the tax due.

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REVENUE DEPARTMENT[730]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 72, "Examination and Certification of Assessors and Deputy Assessors," Iowa Administrative Code.

The majority of the amendments are proposed to clarify existing language.

Specifically, a subrule has been added to clarify that Iowa Code section 441.5 does not restrict the department from holding more than two statewide examinations a year.

A subrule has been added to provide that a person who is scheduled to take an examination but who does not appear to take the examination cannot take a make-up examination.

Subrules 72.8(1), 72.8(4) and 72.10(2) have been amended to reflect recent legislation that permits deputy assessors to be appointed from either the assessor register or the deputy assessor register.

Rule 72.13(441) is amended to eliminate the minimum of two weeks' field training for assessors holding provisional appointments. Also, a requirement has been added that to obtain regular certification, a provisional appointee must actually make appraisals of representative properties in each class of real estate.

Rule 72.18(421,441) pertaining to course examinations given by the department is amended to conform with rules for the assessor and deputy assessor examinations with regard to the conduct of persons taking the examinations, the length of the examination and the review of the examinations.

Any interested person may make written suggestions or comment on these proposed amendments on or before September 17, 1982. Such written comments should be directed to the Property Tax Administrator, Property Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Property Tax Administrator at (515) 281-

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5731 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 1982.

These rules are intended to implement Iowa Code sections 441.5 and 441.11, as amended by the Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2186.

The following amendments are proposed.

ITEM 1. Subrule 72.2(6) is amended to read as follows:

72.2(6) Review of examination. ~~Individuals~~ *Persons* who have taken the examination may, after presenting proper identification, review their examination in the office of the department's property tax division within sixty days after the date the examination has been administered. ~~The R~~review shall consist only of examining the ~~individual's~~ *person's* own answer sheet and the question book. ~~Individuals~~ *Persons* reviewing their examinations shall not be permitted to take notes or otherwise transcribe information during this review, nor shall they have access to the answers to questions contained in the examination. ~~Individuals~~ *Persons* who review their examinations shall be permitted to do so only once, and shall not be eligible to take an examination for the position of assessor or deputy assessor for a period of at least thirty days following the date of the review of the examinations.

ITEM 2. Subrule 72.2(7) is amended to read as follows:

72.2(7) Assessor examination scores. The scores of ~~individuals~~ *persons* who receive a grade of less than seventy percent on the assessor examination shall not be made available to persons other than the ~~individual~~ *person* receiving such a score and employees of the department authorized by the director to have access to the score. Whether a person passed or failed an examination shall be a matter of public record.

ITEM 3. Subrule 72.2(8) is amended to read as follows:

72.2(8) Deputy assessor examination scores. The scores of ~~an individual~~ *persons* who receives a grade of less than seventy percent on the deputy assessor examination shall not be made available to persons other than the ~~individual~~ *persons* receiving such a scores and employees of the department authorized by the director to have access to the scores. Whether a person passed or failed an examination shall be a matter of public record.

ITEM 4. Rule 730—72.2(441) is amended by adding the following new subrules:

72.2(11) Frequency of examination. At the discretion of the director, statewide examinations for the positions of assessor or deputy assessor may be held more than twice a year in Des Moines.

72.2(12) Make-up examination prohibited. Special make-up examinations shall not be held for persons who applied to take the examination for the position of assessor or deputy assessor but who did not for any reason appear at the scheduled examination site.

ITEM 5. Rule 730—72.3(441) is amended to read as follows:

730—72.3(441) Equivalent of high school diploma. Only ~~individuals~~ *persons* who possess a high school diploma or its equivalent are eligible to take the examination. The equivalent of high school diploma shall consist of a high school equivalency certificate issued by the department of public instruction pursuant to *Iowa Code* chapter 259A of the Code, a similar document issued by the U.S.

armed forces, or a similar document issued by another state.

This rule is intended to implement Iowa Code section 441.5.

ITEM 6. Rule 730—72.4(441) is amended to read as follows:

730—72.4(441) Appraisal-related experience. Appraisal-related experience shall include only such experience as may have been obtained through full-time paid employment consisting of the actual appraisal and valuation of property. ~~Said~~ *The* experience shall have included the physical inspection of property as part of the appraisal process and the setting of values for parcels of property.

This rule is intended to implement Iowa Code section 441.5.

ITEM 7. Rule 730—72.5(441) is amended to read as follows:

730—72.5(441) Regular certification.

72.5(1) To obtain regular certification, ~~an individual~~ *person* must (a) possess two years' appraisal-related experience at the time of successfully writing the examination, or (b) have obtained temporary certification, received a provisional appointment as assessor, and successfully completed the course of study prescribed by the director as provided in Iowa Code section 441.5.

72.5(2) If subsequent to the successful writing of the examination ~~an individual~~ *person* who has not received a provisional appointment as assessor attains two years' appraisal-related experience, ~~said individual~~ *the person* must again successfully write the examination to obtain regular certification.

72.5(3) A regular certificate shall expire two years after the most recent date certification is granted by the director. However, the regular certificate of ~~an individual~~ *person* who receives an appointment as assessor shall remain valid until ~~said individual's~~ *the person's* resignation or removal from the position of assessor, even though more than two years have expired since certification was last granted.

72.5(4) A regular certificate may at any time be renewed if the ~~individual~~ *person* possessing such a certificate successfully rewrites the assessor examination. A regular certificate so renewed shall remain valid for a period of two years from the date certification was last granted, except as provided in *subrule* 72.5(3).

This rule is intended to implement Iowa Code section 441.5.

ITEM 8. Rule 730—72.6(441) is amended to read as follows:

730—72.6(441) Temporary certification.

72.6(1) To obtain temporary certification, ~~an individual~~ *person* who does not possess two years' appraisal-related experience must successfully write the examination for the position of assessor.

72.6(2) The temporary certificate of ~~an individual~~ *person* who does not receive a provisional appointment as assessor shall expire two years after the date the certification is granted by the director.

72.6(3) The temporary certificate of ~~an individual~~ *person* who does not receive a provisional appointment as assessor may be renewed if the ~~individual~~ *person* successfully rewrites the assessor examination. A temporary certificate so renewed shall remain valid for a period of

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two years from the date temporary certification was last granted.

72.6(4) The temporary certificate of an ~~individual person~~ who receives a provisional appointment as assessor shall expire upon the ~~individual's person's~~ successful completion of the course of study provided in section 441.5 and the granting of regular certification by the director.

72.6(5) The director shall revoke the temporary certificate of an ~~individual person~~ who receives a provisional appointment as assessor and who does not complete the course of study provided in Iowa Code section 441.5 within eighteen months of the ~~individual's person's~~ appointment as assessor. Upon the revocation of an assessor's temporary certificate, the director shall notify the ~~individual person~~ of the revocation and shall notify the appropriate conference board of the revocation and that the assessor whose temporary certificate has been revoked is no longer eligible to hold the position of assessor.

This rule is intended to implement Iowa Code section 441.5.

ITEM 9. Rule 730—72.8(441) is amended to read as follows:

730—72.8(441) Deputy assessors — regular certification.

72.8(1) An ~~individual person~~ who successfully writes the examination for *assessor or* deputy assessor shall be granted regular *deputy assessor* certification by the director and shall be eligible for appointment to a deputy assessor position.

72.8(2) A deputy assessor regular certificate shall expire two years after the most recent date certification is granted, except as provided in *subrule 72.8(3)*.

72.8(3) The deputy assessor regular certificate of an ~~individual person~~ who is appointed deputy assessor shall remain valid until the ~~individual's person's~~ resignation or removal from the position of deputy assessor, or until the death, resignation, or removal of the assessor who appointed ~~said individual the person~~ as deputy assessor. However, in the event of the death, resignation, or removal of the assessor, the deputy assessor certificate of the chief deputy shall remain valid until a new assessor is appointed. Nothing contained in this rule shall be construed to relieve a deputy assessor holding a restricted certificate of the continuing education requirements for the retention of his or her position as provided in Iowa Code section 441.8.

72.8(4) A deputy assessor regular certificate may at any time be renewed if the ~~individual person~~ possessing such a certificate successfully rewrites the *assessor or* deputy assessor examination. A deputy assessor certificate so renewed shall remain valid for a period of two years from the date certification was last granted, except as provided in *subrule 72.8(3)*.

This rule is intended to implement Iowa Code section 441.5.

ITEM 10. Subrule 72.10(2) is amended to read as follows:

72.10(2) After the appointment of a new assessor, the assessor may appoint one or more deputy assessors from the registers of ~~individuals persons~~ certified as eligible for appointment as *assessor or* deputy assessor or the assessor may appoint as deputy assessor a person holding a restricted deputy assessor certificate valid for that assessing jurisdiction. The assessor shall notify the director immediately of ~~any and all individuals persons~~

appointed as deputy assessors, the vacating of office by a deputy assessor, or a change in a deputy assessor's legal name.

This rule is intended to implement Iowa Code sections 441.5 and 441.11, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2186.

ITEM 11. Rule 730—72.13(441) is amended to read as follows:

730—72.13(441) Course of study for provisional appointees. A ~~P~~persons who possesses temporary certification and receives a provisional appointments as assessors shall within eighteen months of ~~said the~~ appointment complete a course of study prescribed and administered by the department of revenue. ~~Said~~ The course of study shall include the following: (1) Attendance at at least one basic assessment school conducted by the department of revenue; (2) a ~~minimum of two weeks'~~ field instruction by appraisal personnel of the department of revenue; (3) ~~the actual appraisal of representative properties in each class of real estate; and~~ (4) attendance at the annual school of instruction sponsored by the department of revenue and the Iowa State Association of Assessors. In the event an ~~individual person~~ is unable to attend the annual school of instruction due to circumstances beyond his or her control, the director may, upon the request of the ~~individual person~~, substitute comparable instruction for the fulfillment of this requirement. At three-month intervals following the appointment of the assessor, department of revenue appraisal personnel shall complete a review of the assessor's performance and discuss the review with the assessor. If the review indicates unsatisfactory progress is being made toward developing a working knowledge of appraisal principles, the assessor shall be informed as to how his or her performance could be improved. Not less than sixty nor more than ninety days before the expiration of the eighteen-month period, the director of revenue shall inform the assessor and the conference board of the assessor's jurisdiction of his or her determination as to whether ~~said the~~ assessor satisfactorily completed the course.

This rule is intended to implement Iowa Code section 441.5.

ITEM 12. Subrule 72.18(2) is amended to read as follows:

72.18(2) Examinations during the course. Examination questions and answers shall not be made available to persons other than employees of the department authorized by the director to have access to such information. Persons who take the examination shall not discuss with anyone the *specific* questions contained in the examination, nor shall they reveal any *specific* examination question to another person. *This shall not restrict persons who have taken a course examination from discussing the general subject matter of the examination.*

ITEM 13. Subrule 72.18(4) is amended to read as follows:

72.18(4) Personal conduct during course and examination. ~~No person shall exhibit behavior during the course or examination which is disruptive to other students nor cheat on the examination. To preserve the integrity of the examinations and the assessing profession, each person taking an examination shall not exhibit behavior which is disruptive to other persons taking the examination, nor shall a person cheat or attempt to cheat on an examination in any manner.~~

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ITEM 14. Rule 730—72.18(441) is amended by adding the following new subrules:

72.18(8) Review of examination. Persons who have taken a course examination may, after presenting proper identification, review their examination in the office of the department's property tax division within sixty days after the date the examination has been administered. The review shall consist only of examining the individual's own answer sheet and the question book. Persons reviewing their examinations shall not be permitted to take notes or otherwise transcribe information during this review, nor shall they have access to the answers to questions contained in the examination. Persons who review their examinations shall be permitted to do so only once, and shall not be eligible to take the same examination for a period of at least thirty days following the date of the review of the examinations.

72.18(9) Length of examination. The director shall determine the appropriate amount of time in which persons may take each examination. Any person who arrives at the examination site after the examination has begun, shall not be permitted to complete the examination after the time scheduled for completion.

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REVENUE DEPARTMENT[730]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 425.37, the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 73, "Reimbursement to the Elderly and Disabled for Property Tax Paid and Rent Constituting Property Tax Paid," Iowa Administrative Code.

The amendments are proposed to clarify existing language and update implementation clauses.

Rule 73.10(425), pertaining to confidentiality, is amended to reflect the fact that county treasurers, rather than assessors, work with elderly credit claims.

Rule 73.12(425) is amended to exclude persons who are too young to work from receiving benefits based on disability. Rule 73.15(425) is proposed to reflect the provisions of Acts of the Sixty-ninth General Assembly, 1982 Session, House File 861, which provides that a person confined to a care facility is considered to be occupying his or her homestead property.

Rule 73.29(425) is also proposed to reflect the provision of House File 861, which permits rent reimbursement claims to be filed on behalf of a decedent.

Any interested person may make written suggestions or comment on these proposed amendments on or before September 17, 1982. Such written comments should be directed to the Property Tax Administrator, Property Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Property Tax Administrator at (515) 281-5731 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 1982.

These rules are intended to implement Iowa Code section 427.17, as amended by the Acts of the Sixty-ninth General Assembly, 1982 Session, House File 861.

The following amendments are proposed.

ITEM 1. Rule 730—73.1(425) is amended to read as follows:

730—73.1(425) Nursing homes. A claimant whose homestead is a nursing home is eligible to file a reimbursement claim for rent constituting property tax paid.

A claimant whose homestead is a nursing home is to deduct the goods and services provided by the nursing home which are included in his the rental payments when determining gross rent for purposes of calculating rent constituting property tax paid solely for the right of occupancy.

These goods and services could include, but are not limited to: Cost of nursing care, doctor's expense, medication, meals and special menus, personal items including linen and laundry service, transportation, medical equipment and recreational or rehabilitational activities; as well as charges for utilities, furniture, furnishings or personal property appliances furnished by the nursing home.

This rule is intended to implement Iowa Code section 425.17(8).

ITEM 2. Rule 730—73.2(425) is amended as follows at the implementation clause:

This rule is intended to implement *Iowa Code* section 425.17(5); ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 48.~~

ITEM 3. Rule 730—73.3(425) is amended to read as follows:

730—73.3(425) Dual claims. A claimant changing homesteads during the base year who will make property tax payments during the fiscal year following the base year and who ~~did make~~ also made rent payments during the base year is entitled to receive both a property tax credit and rent reimbursement.

Separate claim forms for the property tax credit and the rental reimbursement shall be filed with the county treasurer and the Iowa department of revenue respectively.

The claims are to be based on the actual property tax due and rent constituting property tax paid with a combined maximum of one thousand dollars upon which the credit and reimbursement can be calculated.

Example: \$800 property tax due

\$400 rent constituting property taxes paid

The claim form for calculating the property tax credit shall reflect the entire eight hundred dollar amount.

The claim form for calculating the rent reimbursement shall reflect only the remaining two hundred dollars of the one thousand dollar maximum allowance.

REVENUE DEPARTMENT[730] (cont'd)

The Iowa department of revenue will issue refund warrants for rent reimbursement claims. The county treasurer will apply the property tax credits.

This rule is intended to implement *Iowa Code* section 425.24; ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 4. Rule 730—73.4(425) is amended to read as follows:

730—73.4(425) Multipurpose building. A multipurpose building is a building which is used for purposes other than strictly for living accommodations. A homestead which has portions utilized for business purposes is considered to be a multipurpose building.

The portion of the property tax due or rent constituting property tax paid attributable to the homestead only is to be used in determining the allowable credit or reimbursement. This portion is to be calculated by determining the percentage of the homestead square footage to the square footage of the entire multipurpose structure. This percentage is then to be applied to the property tax due in the current fiscal year or rent constituting property tax paid for the base year.

This rule is intended to implement *Iowa Code* section 425.17(9); ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 5. Rule 730—73.5(425) is amended to read as follows:

730—73.5(425) Multidwelling. A multidwelling is a structure which houses more than one homestead. This includes, but is not limited to: Apartment buildings, duplexes, condominiums, town houses, nursing homes and rooming houses.

A claimant owning a multidwelling whose homestead is a portion of the multidwelling is entitled to a credit for only that portion of the property tax due attributable to the homestead.

This calculation is to be performed the same as for a multipurpose building as described in rule 73.4(425).

This rule is intended to implement *Iowa Code* section 425.17(9).

ITEM 6. Rule 730—73.10(425) is amended to read as follows:

730—73.10(425) Confidential information. Income tax information contained on a property tax credit or rent reimbursement claim form shall be considered confidential with the exception that such information may be conveyed by the department of revenue to city and county assessors treasurers for purposes of eligibility verification for tax credit claims.

This rule is intended to implement *Iowa Code* section 425.28.

ITEM 7. Rule 730—73.11(425) is amended as follows at the implementation clause:

This rule is intended to implement *Iowa Code* section 425.17(4); ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 8. Rule 730—73.12(425) is amended by adding the following new paragraph at the end of the rule:

For purposes of this rule, a person shall not be considered unable to engage in substantial gainful employment unless such person has attained the age of fourteen prior to the base year.

ITEM 9. Rule 730—73.14(425) is amended as follows at the implementation clause:

This rule is intended to implement *Iowa Code* section 427.17 of the Code.

ITEM 10. Chapter 73 is amended by adding the following new rule:

730—73.15(425) Homestead. A person who owns a homestead but is confined to a care facility shall be considered as occupying the owned homestead provided the person does not lease or otherwise receive profits from others for the use of the homestead. Such person shall be eligible for a property tax credit but shall not be eligible for a rent reimbursement.

This rule is intended to implement *Iowa Code* section 425.17(4), as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, House File 861.

ITEM 11. Rule 730—73.17(425) is amended as follows at the implementation clause:

This rule is intended to implement *Iowa Code* section 425.20; ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 12. Rule 730—73.19(425) is amended as follows at the implementation clause:

This rule is intended to implement *Iowa Code* section 425.17(5); ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 13. Rule 730—73.20(425) is amended as follows at the implementation clause:

This rule is intended to implement *Iowa Code* section 425.17(5); ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 14. Rule 730—73.22(425) is amended to read as follows:

730—73.22(425) Special assessments. If a claimant elects to pay the entire amount of a special assessment in one lump sum, the claimant may include ten percent of the special assessment as property taxes due each year for ten consecutive years.

If the computed property taxes due exceeds the claimant's property tax liability, the county treasurer shall refund to the claimant the excess amount and be reimbursed by the department of revenue for the refunded amount.

This rule is intended to implement *Iowa Code* section 425.17(10); ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 15. Rule 730—73.24(425) is amended as follows at the implementation clause:

This rule is intended to implement *Iowa Code* section 425.17(3); ~~The Code, as amended by Acts of the Sixty-eighth General Assembly, 1979 session, chapter 43.~~

ITEM 16. Chapter 73 is amended by adding the following new rule:

730—73.29(425) Deceased claimant. A claim for property tax credit cannot be filed on behalf of a deceased person. A claim for rent reimbursement may be filed on behalf of a deceased person by such person's spouse, attorney, guardian or administrator provided such person's death occurred subsequent to the base year.

This rule is intended to implement *Iowa Code* sections 425.17(5) and 425.18, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, House File 861.

ARC 3155

REVENUE DEPARTMENT[730]
NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 421.17(19), The Department of Revenue hereby gives Notice of Intended Action to amend Chapter 78, "Property Exemptions," Iowa Administrative Code.

The amendments are proposed to clarify existing language and update implementation clauses.

Subrules 78.2(1), 78.3(1) and 78.4(3) are amended to clarify the procedures for filing exemption claims with boards of review and county auditors.

Subrule 78.3(2) is amended to clarify that the county auditor's authority to assess omitted property includes the authority to assess property which has been exempted by the assessor or board of review.

Subrule 78.6(1) is amended to reflect the provisions of Senate File 549, which pertains to the taxable status of property acquired for public roads. This rule was also amended to clarify the taxable status of property acquired by certain agencies of the U.S. government.

Proposed new rule 78.7(427) addresses the taxable status of personal property owned by an educational institution.

Any interested person may make written suggestions or comment on these proposed amendments on or before September 17, 1982. Such written comments should be directed to the Property Tax Administrator, Property Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Property Tax Administrator at (515) 281-5731 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 1982.

These rules are intended to implement Iowa Code sections 427.1(1) and 427.2, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 549.

The following amendments are proposed.

ITEM 1. Rule 730—78.2(427,441) is amended to read as follows:

730—78.2(427,441) Responsibility of local boards of review.

78.2(1) If an application for exemption is filed with the local board of review, the board of review shall proceed to act in accordance with subrules 78.1(1) and 78.1(2). If the board of review determines that all or a portion of a property shall be is subject to taxation, the board of review shall so assess the property as provided in Iowa Code subsections 427.1(24), and give notice to the taxpayer as provided in Iowa Code section 441.36. *An application filed with the local board of review shall be valid only if no application was filed with the local assessor by February 1, and only if filed with the local board of review during its regular annual session beginning on May 1st.*

ITEM 2. Rule 730—78.3(427,443) is amended to read as follows:

730—78.3(427,443) Responsibility of county auditors.

78.3(1) If an application for exemption is filed with the county auditor, the county auditor shall proceed to act in accordance with subrules 78.1(1) and 78.1(2). If the county auditor determines that all or a portion of a property shall be is subject to taxation, the county auditor shall so assess the property as provided in Iowa Code subsection 427.1(24). *An application filed with the county auditor shall be valid only if no application was filed with the local assessor by February 1 or with the local board of review during its regular annual session beginning on May 1st.*

78.3(2) In addition to determining the taxable status of property in response to an application submitted pursuant to Iowa Code subsection 427.1(23) or 427.1(24), the county auditor may, pursuant to section 443.6, assess for taxation any property which the assessor erroneously omitted: *because of determining the property to be exempt from taxation (Talley v. Brown, 1910, 146 Iowa 360, 125 N. W. 248, 140 Am. St. Rep. 282).*

ITEM 3. Subrule 78.4(3) and 78.4(4) are amended to read as follows:

78.4(3) Applications for exemption required under Iowa Code subsection 427.1(23), must be filed with the assessor not later than February 1 of the year for which such the exemption is requested. ~~Where~~ *An applications are filed with the local board of review must be filed with the board of review while the board is in session, but by not later than July 1 of the year for which the exemption is requested. If the application is filled with or* the county auditor, ~~such claims~~ *it must be filed not later than July 1 of the year for which such exemption is claimed.*

78.4(4) The assessor must list for taxation any property for which an application for exemption has not been filed with the assessor by February first. If no properly completed application is filed by July first of the assessment year for which the exemption would apply, no exemption shall be allowed against the property. (1964 O.A.G. 437).

This rule is intended to implement Iowa Code section 427.1.

ITEM 4. Subrule 78.6(1) is amended by striking unnumbered paragraph two and inserting in lieu thereof the following:

Exceptions to this rule are as follows:

a. Land acquired by the state of Iowa or a political subdivision thereof after July 1 in connection with the establishment, improvement or maintenance of a public road shall be taxable for that portion of the fiscal year in which the property was privately owned.

b. All current and delinquent tax liabilities are to be canceled and no future taxes levied against property acquired by the United States or its instrumentalities, regardless of the date of acquisition, unless the United States Congress has authorized the taxation of specific federally-owned property. (1980 O.A.G. #80-1-19). The following exceptions apply:

(1) Real and personal property owned by the Federal Housing Authority and real property owned by the Federal Land Bank Association is subject to taxation and any tax liabilities existing at the time of the acquisition

REVENUE DEPARTMENT[730] (cont'd)

are not to be canceled. However, the personal property of the Federal Land Bank Association is exempt from taxation. (1982 O.A.G. #82-1-16; 12 USCS §2055).

(2) Existing tax liabilities against property acquired by the Small Business Administration are not to be canceled if the acquisition takes place after the date of levy. However, no taxes are to be levied if the acquisition takes place prior to the levy date or for subsequent fiscal years in which the Small Business Administration owns the property on July 1. (15 USCS §646).

This rule is intended to implement Iowa Code sections 427.1(1) and 427.2, as amended by the Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 549.

ITEM 5. Chapter 78 is amended by adding the following new rule:

730—78.7(427) Personal property. No tax exemption shall be allowed pursuant to Iowa Code section 427.1(10), unless the personal property is owned by the institution or society claiming the exemption.

This rule is intended to implement Iowa Code section 427.1(10).

ARC 3156

REVENUE DEPARTMENT[730]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Sections 421.14 and 422.68(1), the Department of Revenue hereby gives Notice of Intended Action to amend Chapters 91, 92 and 94 of the department's rules relating to games of skill, chance, bingo and raffles, Iowa Administrative Code.

Iowa Code section 99B.2(3) provides that each licensee must file a quarterly gambling report. The due date of the report is established by rule 91.4(99B). If a report is never filed, it is mandatory that the license be revoked. The amendment to subrule 91.5(2) gives the department discretionary authority for revocation if the report is late. The subrule is further amended to provide that revocation of a gambling license, due to a violation of chapter 123, will only occur if the revocation or suspension of a liquor license resulted from a conviction or guilty plea to a criminal violation of Iowa Code chapter 123, as opposed to a revocation or suspension of the liquor license through administrative procedures.

Amendments to rule 91.6(99B) reflects the position that a person who has had a liquor license suspended in a prior twelve-month period or has had a liquor license revoked is not an eligible applicant for a gambling license if the

suspension or revocation resulted from a conviction or guilty plea to a criminal violation of Iowa Code chapter 123, as opposed to a revocation or suspension through administrative proceedings.

Rule 92.8(99B) is amended to reflect Acts of the Sixty-ninth General Assembly, Senate File 387 which amended section 99B.5 to allow the retail value of prizes to be fifty dollars instead of twenty-five dollars. The amendment also allows licensees to conduct one raffle per year where the prize cannot exceed ten thousand dollars. The bill deletes the amount (\$5.00) that can be charged to participants in a raffle conducted at a fair for a chance or ticket. Therefore, section 99B.5 (1)"d" is controlling and a ticket or chance cannot exceed \$1.00 in price for any raffle.

Rule 94.8(99B) is amended to reflect Acts of the Sixty-ninth General Assembly, Senate File 387, which also amended section 99B.7, to allow for prizes of a greater value as stated in 91.6(1)"e". However, there is no limit on the amount that can be charged for a chance or ticket for the one raffle per year where the prize cannot exceed ten thousand dollars.

Any interested person may make written suggestions or comment on these proposed amendments on or before September 17, 1982. Such written comments should be directed to the Director, Excise Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Director of the Excise Tax Division at (515) 281-5476 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 1982.

These rules are intended to implement Iowa Code section 99B.7, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 387.

The following amendments are proposed.

ITEM 1. Amend subrule 91.5(2) to read as follows:

91.5(2) Discretionary revocation: The department may initiate revocation when the following nonconclusive conditions exist:

- a. Licensee fails to file a timely gambling report.
- a.b. Licensee files a false or fraudulent application.
- b.c. Failure to file a properly completed sales tax return.
- e. d. Failure to remit the sales tax timely.
- d.e. Payment of tax with unhonored check.
- e.f. Licensee has incomplete or inadequate records.
- f.g. License issued under Iowa Code chapter 123, is revoked or suspended as a result of a conviction or guilty plea to a criminal violation of Iowa Code chapter 123.

This rule is intended to implement Iowa Code section 99B.14.

ITEM 2. Amend subrule 91.6(1) paragraph "e" to read as follows:

e. Applicant has not held a liquor license that was suspended within the last twelve months: as a result of a conviction or guilty plea to a criminal violation of Iowa Code chapter 123.

ITEM 3. Amend subrule 91.6(1) paragraph "f" to read as follows:

f. Applicant has not held a liquor license that was revoked: as a result of a conviction or guilty plea to a criminal violation of Iowa Code chapter 123.

REVENUE DEPARTMENT[730] (cont'd)

ITEM 4. Amend rule 730—92.8(99B) to read as follows:

730—92.8(99B) Raffles conducted by a fair. Raffles may be conducted at a fair but only by the sponsor of the fair. "Fair" means an annual fair and exposition held by the Iowa state fair board and any fair held by a county or district fair or agricultural society under the provisions of Iowa Code chapter 174. The sponsor of the fair must obtain a license for which the fee is fifteen dollars for each raffle. The rules for the raffle must be posted in the same manner as those for a game of skill or game of chance. Cash prizes may not be awarded and merchandise prizes may not be repurchased. The raffle may not be operated on a pyramid or buildup basis. The cost of each chance or ticket to the raffle cannot exceed one dollar and the aggregate retail value of any prize cannot exceed ~~twenty-five~~ *twenty-five* fifty dollars in merchandise. There is no limit as to the number of winners in a raffle provided no one wins more than ~~twenty-five~~ *twenty-five* fifty dollars in merchandise.

In addition to the normal raffles, a fair may hold one raffle per year at a cost of no more than *five one* dollars per chance or ticket. Under this raffle there may only be one winner. The value of the prize in this raffle may be greater than ~~twenty-five~~ *twenty-five* fifty dollars but not greater than *five ten* thousand dollars as determined by the purchase price paid by the fair. The prize may be a single item or an aggregate of several items, the total value of which does not exceed *five ten* thousand dollars.

This rule is intended to implement Iowa Code Section 99B.5 as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 387.

ITEM 5. Amend rule 730—94.8(99B) to read as follows.

730—94.8(99B) Raffles. A licensee may conduct as many raffles during a license period as desired with no limit as to the number of winners or prizes, provided no one wins a prize with a value greater than ~~twenty-five~~ *twenty-five* fifty dollars. The cost for a chance or a ticket in the raffle shall not exceed one dollar. However, once during a twelve-month period a licensee may conduct a raffle for which a prize with a value greater than ~~twenty-five~~ *twenty-five* fifty dollars but no greater than *five ten* thousand dollars may be awarded as determined by the purchase price paid by the organization or donor. In this raffle there can be only one winner. The prize shall be merchandise only. See rule 92.8(99B) for explanation. The cost for a chance or ticket to a participant to this raffle is unlimited. ~~cannot exceed five dollars for a chance or ticket.~~

This rule is intended to implement Iowa Code Section 99B.7 as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 387.

ARC 3128

SOCIAL SERVICES
DEPARTMENT[770]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)"b", Iowa Code.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 249A.4, the Department of Social Services proposes amending rules appearing in the IAC relating to medical assistance (Chapter 76). These rules would give the department authority to restrict a recipient to a certain provider or providers of medical care. This will help prevent unnecessary payment for overuse or abuse of the program.

Consideration will be given to written data, views, or arguments thereto, received by the Bureau of Policy, Research, and Analysis, Department of Social Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before September 10, 1982.

These rules are intended to implement Iowa Code section 249A.4.

770—chapter 76 is amended by adding the following new rule:

770—76.9(249A) Recipient lock-in. In order to promote high quality health care and to prevent harmful practices such as duplication of medical services, drug abuse or overuse, and possible drug interactions, recipients that utilize medical assistance services or items at a frequency or in an amount which is not medically necessary may be restricted (locked-in) to receive services from a designated provider(s).

76.9(1) A lock-in or restriction shall be imposed for a minimum of six months with longer restrictions determined on an individual basis.

76.9(2) The recipient may select the provider(s) from which services will be received. Any other providers will not be reimbursed.

76.9(3) Payment will be made to provider(s) other than the designated (lock-in) provider(s) in the following instances:

a. Emergency care is required and the designated provider is not available. Emergency care is defined as care necessary to sustain life or prevent a condition which could cause physical disability.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

b. The designated provider requires consultation with another provider.

c. The designated provider refers the recipient to another provider.

76.9(4) When the recipient fails to choose a provider(s) within thirty days of the request, the local income maintenance worker will select the provider(s) based on previously utilized provider(s) and reasonable access for the recipient.

76.9(5) Recipients may change designated provider(s) when a change is warranted, such as when the recipient has moved, the provider no longer participates, or the provider refuses to see the patient. The worker for the recipient shall make the determination when the recipient has demonstrated that a change is warranted.

76.9(6) When lock-in is imposed on a recipient, timely and adequate notice shall be sent and an opportunity for a hearing given in accordance with 770—chapter 7.

ITEM 1. Subrule 109.1(3) is amended to read as follows:
109.1(3) A nonprofit child care center shall have a governing board which meets at least quarterly ~~and has parent representation~~. The board or operating body shall formulate administrative rules and policies within the objectives and purposes of the center.

ITEM 2. Subrule 109.1(8) is amended to read as follows:
109.1(8) The child care center operator, executive or board shall provide and carry out ~~an ongoing~~ a plan for staff training and development.

ITEM 3. Subrule 109.2(2), paragraph "d" is rescinded and paragraphs "e" and "h" relettered as paragraphs "d" and "g".

ITEM 4. Rule 770—109.2(237A) is amended by adding a new subrule 109.2(3) and renumbering current subrules 109.2(3) to 109.2(5) as 109.2(4) to 109.2(6).

109.2(3) Signed immunization cards provided by the state department of health shall be on file for each child enrolled.

ITEM 5. Subrule 109.3(6) is rescinded and the following inserted in lieu thereof:

109.3(6) Emergency plans for fire, tornado, and flood, if area is susceptible to floods, shall be written and posted in a conspicuous place. Emergency plan procedures shall be practiced at least once a month for fire and at least quarterly for tornado.

ITEM 6. Subrule 109.5(4) is amended to read as follows:
109.5(4) In all centers, the following minimum requirements ~~must~~ shall be met:

a. Ceiling height shall be a minimum of seven feet, six inches for rooms above ground level, and a minimum of seven feet for rooms below ground level.

b. ~~Buildings~~ Rooms not having air conditioners or mechanical ventilation shall have a ratio of window area to floor area of eight percent of floor space or more ~~and all~~ ~~openable windows and doors shall be screened with sixteen mesh wire.~~

c. All rooms shall be ventilated, without drafts, by means of windows which can be opened or by an air conditioning or mechanical ventilating system.

d. All windows used for ventilation shall be screened with sixteen mesh wire.

e. Areas used by the children shall be heated when the temperature falls below 68 degrees so a temperature of 68 degrees to 72 degrees is maintained at the floor level. Radiators and hot water pipes shall be screened or insulated to prevent burns.

f. Lighting with a capacity to produce a light intensity of twenty foot candles in the program area shall be provided. ~~All rooms shall be ventilated, without drafts, by means of windows which can be opened or by an air conditioning or ventilating system.~~

ITEM 7. Subrule 109.5(8) is amended to read as follows:

109.4(8) One functioning toilet and one lavatory for each fifteen children or fraction thereof, shall be provided in a room with natural or artificial ventilation. Training seats or chairs shall be allowed for children under two years of age. There shall be handwashing facilities with hot and cold running water for child care personnel in rooms where infants are housed or in an adjacent area *other than in the kitchen*.

ITEM 8. Subrule 109.6(3), paragraph "b", fourth unnumbered paragraph, is amended to read as follows:

ARC 3129

SOCIAL SERVICES
DEPARTMENT[770]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)"b", Iowa Code.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 237A.12, the Department of Social Services proposes amending rules appearing in the IAC relating to child care centers (Chapter 109). These rule changes consist of two parts—several minor changes and rewording of rules and a new section on licensing procedures.

The minor changes and rewording were needed for better understanding as well as for more uniform application and enforcement of rules. This is essential to good regulatory administration. These rule changes will help improve the quality of licensing, as well as do a better job of protecting children. A new section on minimum requirements for licensing procedures was needed to clarify procedures and responsibilities for both applicants and the department. The current rules do not speak to time frames for completing application steps or for issuing a license. Neither do they speak to sanctions that may be taken or to the applicant's right of appeal.

Consideration will be given to written data, views, or arguments thereto, received by the Bureau of Policy, Research, and Analysis, Department of Social Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before September 10, 1982.

These rules are intended to implement Iowa Code section 237A.12.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

Lunch or supper— $\frac{1}{2}$ cup of milk; 1 ounce (edible portion as served) of lean meat or an equivalent quantity of a protein food; $\frac{1}{4}$ cup of vegetables; $\frac{1}{4}$ cup of fruit each of two vegetables or $\frac{1}{4}$ cup each of two fruits, or a combination of both; $\frac{1}{2}$ slice of bread or equivalent; $\frac{1}{2}$ teaspoon of butter or fortified margarine.

ITEM 9. Subrule 109.6(5), paragraph "d", is amended to read as follows:

d. ~~Food service personnel~~ *The person preparing meals* must maintain good personal hygiene and appropriately covered hair ~~while preparing and serving food~~. Food shall not be handled by cooks with open sores or bandages on their hands unless wearing protective gloves.

ITEM 10. Subrule 109.7(3), paragraph "d", is amended to read as follows:

d. There shall be at least two feet of space on all sides of the cot, bed, or crib except where the cot, bed, or crib touches the wall. *Cribs shall not be stacked one on top of the other, nor attached one to the other except those cribs in use by a licensed center prior to the adoption of this rule.*

ITEM 11. Add the following new rule:
770—109.9(237A) **Licensure procedures.**

109.9(1) Application for license.

a. Any adult individual or agency has the right to make application for a license.

b. Requested reports including the fire marshal's report and other information relevant to the licensing determination shall be furnished to the department by the applicant within ninety days of application.

c. Applicants shall be notified of approval or denial within ninety days of application.

109.9(2) License.

a. An applicant showing full compliance with center licensing laws and these rules shall be issued a license for one year.

b. A new license shall be obtained when the center moves, expands, or the facility is remodeled to change licensed capacity.

c. A new license shall be obtained when another adult or agency assumes ownership or legal responsibility for the facility.

109.9(3) Provisional license.

a. A provisional license may be issued for a period up to one year when the center does not meet all standards imposed by law or these rules.

b. A provisional license shall be renewable when written plans to bring the center up to standards, giving specific dates for completion of work, are submitted to and approved by the department.

109.9(4) Denial. Applications shall be denied when:

a. The applicant does not comply with center licensing laws and these rules in order to qualify for a full or provisional license.

b. The facility is operating in a manner which impairs the safety, health, sanitation, hygiene, comfort, or well-being of children in care.

c. The director or an employee has been convicted of a crime indicating an inability to operate a children's facility or care for children.

d. The director or an employee has a history of substantiated child abuse or neglect records.

e. There is a substantiated sexual abuse report on the director or staff member of the facility.

109.9(5) Revocation and suspension. A license shall be revoked or suspended if corrective action has not been taken when:

a. The facility does not comply with the licensing requirements imposed by law or these rules.

b. The facility is operating in a manner which impairs the safety, health, sanitation, hygiene, comfort, or well-being of the children in care.

c. The director or an employee has been convicted of a crime indicating an inability to operate a children's facility or care for children.

d. The director or an employee has a history of substantiated child abuse or neglect reports.

e. There is a substantiated child sexual abuse report on the director or staff member of the facility.

109.9(6) Adverse action.

a. Notice of adverse actions (denial, revocation, or suspension) and the right to appeal the licensing decision shall be given to applicants and licensees in accordance with 770—chapter 7.

b. An applicant or licensee affected by an adverse action may request a hearing by means of a written request directed to the local office, district office, or central office of the department of social services within thirty days after the date the official notice was mailed containing the nature of the denial, revocation, or suspension.

ARC 3108**SOCIAL SERVICES
DEPARTMENT[770]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Section 217.6, and the Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393, the Department of Social Services has filed emergency rules relating to the child abuse prevention program (Chapter 146), ARC 3107. These rules provide procedures for the department to contract with an organization to administer the program and for the contractor to solicit and select project proposals, to interact with the advisory council, and to monitor projects.

Although the rules were emergency adopted and implemented, the department is soliciting comments on them and will consider those comments for possible changes.

Consideration will be given to written data, views, or arguments thereto, received by the Bureau of Policy, Research, and Analysis, Department of Social Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before September 10, 1982.

These rules are intended to implement Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393.

ARC 3130**SOCIAL SERVICES
DEPARTMENT[770]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)"b". Iowa Code.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304, Section 117, the Department of Social Services proposes adopting the following rules relating to dependent adult abuse (Chapter 147). These rules are a result of legislation to establish a program to provide protection for abused dependent adults and to establish a central registry for dependent adult abuse. The rules will allow the department to provide assistance to dependent adults who are being abused by their caretakers or who are denying themselves critical care. Assistance will focus on helping the adults protect themselves or providing themselves a healthier environment in which to live.

Consideration will be given to written data, views, or arguments thereto, received by the Bureau of Policy, Research, and Analysis, Department of Social Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before September 10, 1982.

These rules are intended to implement 1982 Acts, Senate File 2304, Section 117.

CHAPTER 147**DEPENDENT ADULT ABUSE****770—147.1(69GA,SF2304) Definitions.**

147.1(1) Adult abuse. "Adult abuse" means:

a. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

(1) Physical injury to or unreasonable confinement or cruel punishment of a dependent adult.

(2) The commission of a sexual offense under Iowa Code chapter 709 (sexual abuse) or Iowa Code section 726.2 (incest) with or to a dependent adult.

(3) Exploitation of a dependent adult.

(4) The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health.

b. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

147.1(2) Caretaker. "Caretaker" means a person who has the responsibility for the protection, care, or custody of a dependent adult as a result of a family relationship or who has assumed the responsibility voluntarily, by contract, through employment, or by order of the court.

147.1(3) Department. "Department" means the department of social services and includes the local, district and central offices of the department, unless otherwise specified.

147.1(4) Dependent adult. "Dependent adult" means a person eighteen years of age or older who is unable to

protect his or her own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another.

147.1(5) Exploitation. "Exploitation" means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

147.1(6) Minimum food, shelter, clothing, supervision, physical and mental health care, and other care. "Minimum food, shelter, clothing, supervision, physical and mental health care, and other care" means that food, shelter, clothing, supervision, physical and mental health care, and other care which, if not provided, would constitute denial of critical care.

147.1(7) Denial of critical care. "Denial of critical care" is a pattern of care in which the dependent adult's basic needs are denied or ignored to such an extent that there is imminent or potential danger of the dependent adult suffering injury or death, or is a denial of, or a failure to provide the mental health care necessary to adequately treat the dependent adult's serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning, or is a failure of the caretaker to provide for the proper supervision of the dependent adult.

147.1(8) Proper supervision. "Proper supervision" means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall a person place a dependent adult in a situation that may endanger the dependent adult's life or health, or cruelly punish or unreasonably confine the dependent adult.

147.1(9) Appropriate evaluation. "Appropriate evaluation" means that evaluation reasonably believed by the department to be warranted by the facts and circumstances of the case as reported.

147.1(10) Report. "Report" means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

147.1(11) Collateral sources. "Collateral sources" means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and public health nurses.

147.1(12) Physical injury. "Physical injury" means damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage.

147.1(13) Registry. "Registry" means the central registry for child abuse information established in Iowa Code chapter 235A, expanded to include the statewide registry for dependent adult abuse.

770—147.2(69GA,SF2304) Denial of critical care. The failure on the part of the caretaker or dependent adult to provide for minimum food, shelter, clothing, supervision, physical and mental care, and other care necessary for the dependent adult's health and welfare when financially able to do so or when offered financial

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and other reasonable means to do so shall constitute denial of critical care to that dependent adult.

770—147.3(69GA,SF2304) Situations not included as dependent adult abuse.

147.3(1) A report under Iowa Code chapter 236, domestic abuse, does not in and of itself constitute a report of dependent adult abuse.

147.3(2) Depriving a dependent adult of medical treatment when the dependent adult is an adherent of a religion whose tenets and practices call for reliance on spiritual means through prayer alone in place of reliance on medical treatment.

147.3(3) The withholding and withdrawing of health care from a dependent adult when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian when the dependent adult is unable to express his or her wishes and is terminally ill in the opinion of a licensed physician.

147.3(4) All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the division of adult corrections.

770—147.4(69GA,SF2304) Reporters. Any person who believes that a dependent adult has suffered adult abuse may report the suspected abuse to the department. If a member of the staff or any employee of a public or private institution, agency, or facility notifies the person in charge of the institution, agency, or facility of a case of suspected adult abuse in the institution, agency, or facility, the person in charge shall report the suspected adult abuse to the department.

770—147.5(69GA,SF2304) Reporting procedure.

147.5(1) Each report made by a reporter may be oral or written.

147.5(2) The report shall be made by telephone or otherwise to the department of social services. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

147.5(3) The department of social services shall:

- a. Immediately, upon receipt of a report, make an oral report to the registry;
- b. Forward a copy of the report to the registry; and
- c. Notify the appropriate county attorney of the receipt of any report.

147.5(4) The report shall contain the following information, or as much thereof as the person making the report is able to furnish:

- a. The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other persons believed to be responsible for the care of the dependent adult.
- b. The dependent adult's present whereabouts if not the same as the address given.
- c. The reason the adult is believed to be dependent.
- d. The dependent adult's age.
- e. The nature and extent of the adult abuse, including evidence of previous adult abuse.
- f. Information concerning the suspected adult abuse of other dependent adults in the same residence.
- g. Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse, or helpful in providing assistance to the dependent adult.

h. The name and address of the person making the report.

147.5(5) A report shall be accepted whether or not it contains all of the information requested in 147.5(4), and may be made to the department, county attorney, or law enforcement agency. When the report is made to any agency other than the department of social services, that agency shall promptly refer the report to the department.

770—147.6(69GA,SF2304) Duties of the department upon receipt of report.

147.6(1) When a report is received, the department shall promptly commence an appropriate evaluation, except that the state department of health is responsible for the evaluation and disposition of a case of adult abuse in a health care facility, as defined in Iowa Code section 135C.1, subsection 4. The department shall forward all reports and other information concerning adult abuse in a health care facility to the state department of health. The state department of health shall inform the registry of all actions taken or contemplated concerning the evaluation or disposition of a case of adult abuse in a health care facility. The primary purpose of the evaluation by the department shall be the protection of the dependent adult named in the report.

147.6(2) The evaluation shall include all of the following:

- a. Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.
- b. The identification of the person or persons responsible for the adult abuse.
- c. A determination of whether other dependent adults in the same residence have been subjected to adult abuse.
- d. A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.
- e. A critical examination of all other pertinent matters.

147.6(3) The evaluation, with the consent of the dependent adult or caretaker, when appropriate, may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult. If permission to enter the residence and to examine the dependent adult is refused, the district court, upon a showing of probable cause that a dependent adult has been abused, may authorize a person, authorized by the department, to make an evaluation, to enter the residence of, and to examine the dependent adult.

147.6(4) The department, upon completion of its evaluation, shall transmit a copy of its preliminary report, including actions taken or contemplated, to the registry within ninety-six hours after the department receives the adult abuse report, unless the registry grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the registry grants an extension of time for good cause shown.

147.6(5) The department shall also transmit a copy of the report of its evaluation to the appropriate county attorney. The county attorney shall notify the local office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.

147.6(6) Based on the evaluation, the department shall complete an assessment of services needed by a

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dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. The department shall explain that the department does not have independent legal authority to compel the acceptance of protective services. Upon voluntary acceptance of the offer of services, the department shall make referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The department may establish a sliding fee schedule for those persons able to pay a portion of the protective services provided.

147.6(7) When, upon completion of the evaluation, the department determines that the best interests of the dependent adult requires court action, the department shall initiate action for the appointment of a guardian or conservator, or for admission or commitment to an appropriate institution or facility. The department should seek assistance from the appropriate county attorney in the preparation of the necessary papers to initiate the action, and should appear and represent the department at all district court proceedings.

147.6(8) The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

147.6(9) In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, the department should seek legal counsel appointed by the court, to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem.

770—147.7(69GA,SF2304) Appropriate evaluation.

147.7(1) After receipt of the report alleging dependent adult abuse the field worker shall make a preliminary evaluation to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources would tend to corroborate the alleged abuse.

147.7(2) When the information gathered in the preliminary evaluation tends to corroborate, or the worker is uncertain as to whether it repudiates the allegations of the report, the worker shall immediately continue the evaluation by making a reasonable effort to ensure the safety of the adult. The worker and the worker's supervisor shall determine whether an immediate threat to the physical safety of the adult is believed to exist. If an immediate threat to the physical safety of the adult is believed to exist, the field worker shall make every reasonable effort to examine the adult, as authorized by 147.6(3), within one hour after receipt of the report and shall take any lawful action necessary or advisable for the protection of the adult. When the physical safety of the adult is not endangered, the worker shall make every reasonable effort to examine the adult within twenty-four hours after receipt of the report.

147.7(3) In the event the information gathered in the preliminary evaluation fails to corroborate the allegation of adult abuse, the worker with approval of the supervisor, may terminate the investigation and submit the "ninety-six-hour report" required by subrule 147.6(4).

770—147.8(69GA,SF2304) Immunity from liability for reporters. A person participating in good faith in

reporting or co-operating or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

770—147.9(69GA,SF2304) Registry records. Central registry records shall be kept in the name of the dependent adult and cross-referenced in the name of the caretaker.

770—147.10(69GA,SF2304) Information disseminated. Reports by the central registry to the medical practitioner or law enforcement agency shall be limited to the nature and extent of previous injury sustained by the dependent adult named in the report. All other information shall be available to departmental employees designated to investigate the report. Requests for dependent adult abuse information shall be made on form SS-1114-0, "Request for Dependent Adult Abuse Information." Authorized access shall be determined by the local office when the requester is unknown to the central registry. Information shall be routed through the local office to ensure lawful dissemination.

770—147.11(69GA,SF2304) Person conducting research. The person in charge of the central registry shall be responsible for determining whether a person requesting dependent adult abuse information is conducting bona fide research. To make this determination, the central registry may require these persons to submit credentials and the research design. Any costs incurred in the dissemination of the information shall be assumed by the researcher. The department will keep a public record of persons conducting research.

770—147.12(69GA,SF2304) Examination of information. Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8:00 a.m. and 12:00 p.m. or 1:00 p.m. and 4:00 p.m., Monday through Friday, except state authorized holidays.

The person, or that person's attorney, requesting to examine the information in the registry which refers to that person, shall be allowed to inspect the information after providing appropriate identification.

770—147.13(69GA,SF2304) Expungement of central registry records. When a report of dependent adult abuse has been determined to be unfounded in accordance with Iowa Code section 235A.18, subsection 2, the report shall be expunged within one month after the determination.

770—147.14(69GA,SF2304) Investigation when alleged perpetrator is a department employee. The department of social services shall arrange for the investigation of dependent adult abuse in which the alleged perpetrator is an employee of the department of social services and the allegedly abused dependent adult is being provided care in a facility or institution of the department of social services. The arrangement shall be implemented either by contract for fee or through inter-governmental agency, or a law enforcement agency.

770—147.15(69GA,SF2304) Central registry. The central registry for child abuse shall be expanded to

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include dependent adult abuse, and Iowa Code chapter 235A shall apply unless the context otherwise requires.

These rules are intended to implement 1982 Acts, Senate File 2304, Section 117.

ARC 3121

**TRANSPORTATION,
DEPARTMENT OF[820]**

**07 MOTOR VEHICLE DIVISION
NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §17A.4(1)"b".

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

On September 28, 1982, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the transportation commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Iowa Code Chapter 17A, and Department of Transportation rules 820—[01,B] Chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the department of transportation on or before September 14, 1982.

Any person or agency, as defined in Iowa Code section 17A.2, subsections 1 and 6, may submit written com-

ments or written requests to make an oral presentation. Such comments or requests shall clearly state:

1. The name, address and phone number of the person or agency authoring the comment or request.

2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)

3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Iowa Code Section 307.10, the department of transportation hereby gives Notice of Intended Action to amend 820—[07,D] Chapter 11 entitled "Vehicle Registration and Certificate of Title".

These amendments define special fuel and direct placement of the special fuel identification sticker which was authorized by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2251.

These rule amendments are intended to implement Iowa Code chapter 321.

Proposed rulemaking actions:

Pursuant to the authority of Iowa Code Section 307.10, rules 820—[07,D] Chapter 11 entitled "Vehicle Registration and Certificate of Title," are hereby amended.

ITEM 1. 820—[07,D]11.1(321) is amended by adding the following new subrule:

11.1(12) Special fuel means any type of fuel, other than gasoline or gasohol, that propels a motor vehicle, including fuel which is manufactured from gasoline by-products and any type of fuel that does not meet the definition of motor fuel as described in Iowa Code section 324.2(1).

ITEM 2. 820—[07,D]Chapter 11 is amended by adding the following new rule:

820—[07,D]11.7(321) Special fuel user identification sticker. If the vehicle uses a special fuel as defined in subrule 11.1(12) herein, a special fuel user identification sticker will be issued. This sticker shall be displayed on the cover of the fuel inlet of the motor vehicle or on the outside panel of the motor vehicle within three inches of the fuel inlet so as to be in view when fuel is delivered into the motor vehicle.

This rule is intended to implement Iowa Code sections 321.40 and 321.41, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2251.

ARC 3110**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of the Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 78, Section 4, rules relating to alternative diagnostic facilities (566—chapter 2, Mental Health Advisory Council) as they appear in the IAC dated October 15, 1980 are hereby transferred to the Department of Social Services as 770—chapter 34. These rules are the standards for facilities other than community mental health centers that provide preliminary diagnostic evaluations for admission to a state mental health institute. Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 78, rescinded the Mental Health Advisory Council and transferred its functions to the Department of Social Services so the current rules are being transferred to remain in effect. The department will be proposing amendments to these rules in the near future.

The department of social services finds that notice and public participation are unnecessary. The rules are already effective, are not being changed at this time and are being transferred in their entirety only because of the change in departments specified in the law. Therefore, these rules are filed pursuant to Iowa section 17A.4(2).

The department of social services finds that these rules confer a benefit on the public. Unless the rules are transferred, people may get confused as to what the standards are and where to locate them. It is to their benefit to have the rules transferred to their new location. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The mental health and mental retardation commission adopted these rules July 6, 1982. These rules are intended to implement Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 78, Section 18.

These rules shall become effective immediately upon filing.

[Filed emergency 7/22/82, effective 7/22/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3131**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code Section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 41) are hereby amended. This rule changes the definition of participating in a strike.

The Department of Social Services finds that notice and public participation are impracticable and contrary to the public interest. Because the current rule is not clear enough to be applied to specific circumstances, people may be being denied assistance when they are in fact eligible. The rule needs to be changed immediately to rectify this situation. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that this rule confers a benefit on the public. By clearly defining when an individual is not participating in a strike, people who have been denied assistance under the current rule may be able to receive benefits. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Social Services adopted this rule July 28, 1982.

This rule is intended to implement Iowa Code sections 239.2 and 239.5.

This rule shall become effective immediately upon filing.

Subrule 41.5(5), paragraph "c", subparagraph (2), is rescinded and the following inserted in lieu thereof:

(2) An individual is not participating in a strike at her/his place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of fear of personal injury or death. The district administrator shall determine whether such a risk to the individual's safety exists.

[Filed emergency 7/30/82, effective 7/30/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3132**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code Section 234.6, rules of the Department of Social Services appearing in the IAC relating to the food stamp program (Chapter 65) are hereby amended. This rule clarifies the definition of "involvement in a strike."

The Department of Social Services finds that notice and public participation are impracticable and contrary to the public interest. Because the regulation is not clear enough to be applied to specific circumstances, people may be being denied assistance when they are in fact eligible. The rule needs to be changed immediately to rectify this situation. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that this rule confers a benefit on the public. By clearly defining when

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an individual is not involved in a strike, people who have been denied assistance under the current rule may be able to receive benefits. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Social Services adopted this rule July 28, 1982.

This rule is intended to implement Iowa Code section 234.12.

This rule shall become effective immediately upon filing.

770—chapter 65 is amended by adding a new rule:

770—65.17(234) Involvement in a strike. An individual is not involved in a strike at her/his place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of fear of personal injury or death. The district administrator shall determine whether such a risk to the individual's safety exists.

This rule is intended to implement Iowa Code section 234.12:

[Filed emergency 7/30/82, effective 7/30/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

dependent children benefit amount. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

It should be noted that this change in no way affects the rule placed under Notice of Intended Action June 9, 1982 as ARC 2950.

The Council on Social Services adopted this rule July 28, 1982.

This rule is intended to implement Iowa Code section 249A.3(2)"a".

This rule shall become effective August 1, 1982.

Persons adversely affected by the provisions of the previous rule in June and July shall have benefits restored for those months using the policies in this rule.

Subrule 75.5(3) is rescinded and the following inserted in lieu thereof:

75.5(3) Member of a couple whose noninstitutionalized spouse is ineligible for medical assistance as aged, blind, or disabled. From the combined income of the resident and ineligible spouse, the ineligible spouse may keep funds for the payment of reasonable expenses, subject to verification, which are necessary to maintain the ineligible spouse's and dependent children's customary standard of living. Payment of old debts is an unreasonable expense that shall be allowed only when the payment is a regular installment payment made pursuant to a legally enforceable contract signed prior to the application for assistance and is a debt upon which the family has been making regular payments. If the reasonable living expenses of the noninstitutionalized spouse do not exceed his/her own income, no diversion of the noninstitutionalized spouse's income shall be made to the institutionalized spouse. The institutionalized spouse shall have no more than \$1,500.00 in resources, or if this amount is exceeded, the combined resources of the institutionalized spouse and the noninstitutionalized spouse shall not exceed \$2,250.00.

[Filed emergency 7/30/82, effective 8/1/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3133**SOCIAL SERVICES
DEPARTMENT**[770]

Pursuant to the authority of Iowa Code Section 249A.4, rules of the Department of Social Services appearing in the IAC relating to medical assistance (Chapter 75) are hereby amended. This rule changes the method of determining eligibility and client participation for an individual in a medical institution who has a spouse at home.

The Department of Social Services finds that notice and public participation are impracticable and contrary to the public interest. Although the emergency rule published June 9, 1982 as ARC 2949 clearly benefited some people, it had a negative effect on others. In order to avoid this negative effect, this rule must be implemented immediately. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that this rule confers a benefit on the public by removing the negative effect the prior rule had on some people. This rule will enable a noneligible spouse at home to receive reasonable living expenses from the income of the spouse who is institutionalized rather than being limited to the supplemental security income benefit amount or the aid to

ARC 3107**SOCIAL SERVICES
DEPARTMENT**[770]

Pursuant to the authority of Iowa Code Section 217.6, and Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393, the following rules relating to the child abuse prevention program (Chapter 146) are hereby adopted. These rules provide procedures for the department to contract with an organization to administer the program and for the contractor to solicit and select project proposals, to interact with the advisory council, and to monitor projects.

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The Department of Social Services finds that notice and public participation are impracticable. Funds are appropriated for July 1, 1982. Soliciting project proposals and awarding funds will take time. In order for projects to get started and have any beneficial effect this fiscal year, there is not time to go through regular rulemaking procedures. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that these rules confer a benefit on the public. They will enable the funding of projects designed to prevent the abuse of children, thus enhancing the welfare of children in Iowa. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The department is also soliciting comments on these rules under a Notice of Intended Action, ARC 3108.

The Council on Social Services adopted these rules July 19, 1982. These rules are intended to implement Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393.

These rules shall become effective upon filing [7/20/82].

CHAPTER 146

CHILD ABUSE PREVENTION PROGRAM

770—146.1(69GA, HF2393) Definitions.

146.1(1) Advisory council or council. "Advisory council" or "council" means the child abuse prevention program advisory council created by the Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393.

146.1(2) Child abuse prevention program or program. "Child abuse prevention program" or "program" means that program established by Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393. Use of either term in the context of this chapter refers to the program as a whole rather than individual projects funded under the program.

146.1(3) Commissioner. "Commissioner" means the commissioner of the department of social services.

146.1(4) Community based volunteer coalition or council or community council. "Community based volunteer coalition or council" or "community council" means that group of persons who, by consensus of a community's human service providers, represent that community's interests in the area of prevention of child abuse and neglect and who serve in the representational capacity without compensation. The consensus of the community's human service providers may be demonstrated through letters of support or similar documentation.

146.1(5) Contractor. "Contractor" means the single agency or organization with which the department contracts for administration of the child abuse prevention program and program funds.

146.1(6) Department. "Department" means the Iowa department of social services.

146.1(7) Fiscal year. "Fiscal year" means the twelve-month period for which child abuse prevention program funds are appropriated.

146.1(8) Grantees or projects. "Grantees" or "projects" are terms used in this chapter to refer to the individual projects funded under the child abuse prevention program as approved by the advisory council.

770—146.2(69GA, HF2393) Child abuse prevention program administration. In any year in which the legislature appropriates funds for the child abuse prevention program, the department shall contract with a single

agency or organization to administer the appropriated funds and to study and evaluate community based prevention projects and educational programs for the problems of families and children in accordance with the provisions of Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393, and of these rules. Any grants, gifts or bequests to the department which are specifically designated by their source for use in the child abuse prevention program shall be administered in the same manner as funds appropriated for use in the program.

146.2(1) Eligibility for the program administration contract is limited to nonprofit statewide agencies or organizations which make maximum use of voluntary administrative services.

146.2(2) Agencies or organizations wishing to apply for the program administration contract shall submit a proposal to the department by August 20, 1982 for the 1983 fiscal year. For each succeeding fiscal year, the contract proposal shall be submitted to the department two months prior to the commencement of the fiscal year. Contract proposals shall contain the following information:

a. A description of the organization or agency requesting the contract including a table of organization and articles of incorporation and a description of other services provided by the organization or agency.

b. A list of the amount and source of current funding and other funding applied for, including the current status of the applications, and the fiscal year budget, for the agency or organization.

c. A description of the proposed plan for administration of the program including:

(1) An action plan which details the use of paid and volunteer staff.

(2) A fiscal year budget showing proposed use of child abuse prevention program funds.

(3) A timetable for implementing the program.

(4) A description of the method to be used to determine whether the goals of the program, as defined by these rules, are being met.

(5) A description of methods to be used to evaluate the success of prevention projects.

(6) A description of proposed methods of co-ordinating the child abuse prevention program with services of other existing agencies and organizations.

d. Letters of support, especially from relevant professionals.

146.2(3) The commissioner or the commissioner's designee shall rank all proposals submitted for the program administration contract based upon the three factors listed below in this subrule. The contract shall be awarded to the agency or organization whose proposal receives the highest total ranking when the rankings for all three factors are added together. The factors which shall be considered in selecting the contractor are:

a. The general structure of the applicant agency or organization including but not limited to how well the program goals as established by the advisory council can be met, the stability of the applicant, the overall quality in comparison to other proposals offered.

b. The plan for using the funds and the ability of the applicant to administer the program.

c. The ability of the applicant to co-ordinate with other existing services.

146.2(4) The department shall execute a contract with the contractor for the amount of funds to be used by the contractor for program administration. The contract

SOCIAL SERVICES DEPARTMENT[770] (*cont'd*)

period shall not extend beyond the fiscal year for which the funds were appropriated. Contractor expenditures will be reimbursed monthly by the state following submission of a Voucher 1 which details expenditures. The contractor shall submit with the Voucher 1 receipts for all expenditures other than salary expenses.

146.2(5) The contractor shall keep statistical records of services provided, clients served, grants awarded, funds expended, and any other records required by the department as specified in the contract.

146.2(6) The contractor shall supply the department with quarterly progress reports that include but are not limited to the following information:

- a. Grants awarded, funds expended, and progress of projects.
- b. A compilation of the status of activities shown in the timetable for implementing the program.
- c. Reasons for any delay in completion of planned activities.
- d. Specific action plan for the following quarter.
- e. A compilation of statistical records that the contractor is required to keep by subrule 146.2(5).
- f. Any general comments on the progress of the program.

146.2(7) With the assistance of the advisory council, the department shall evaluate the contractor's program administration at least two months prior to the end of the contract year to determine how well the goals of the program are being met.

146.2(8) The contractor may terminate the contract at any time during the contract period by giving thirty days' notice to the department. The department may terminate the contract upon ten days' notice when the contractor fails to comply with the contract stipulations, standards, or conditions. The department may terminate the contract at any time during the contract period by giving thirty days' notice to the contractor.

770—146.3(69GA, HF2393) Project eligibility. In any year in which the department contracts with an agency or organization for the administration of child abuse prevention program funds, the contractor shall award the amount of funds specified in the contract for the purposes of matching federal funds to purchase services relating to community based programs for the prevention of child abuse and neglect and of funding the establishment or expansion of community based prevention projects or educational programs for the prevention of child abuse and neglect. Funds for the program or projects shall be applied for and received by community based volunteer coalition or councils.

770—146.4(69GA, HF2393) Proposals. The contractor shall widely disseminate a request for project proposals which fully describes the child abuse prevention program and procedures for applying for program funds. Community councils wishing to apply for funding shall submit a project proposal to the contractor within thirty days of the date of the request for proposals. Project proposals shall contain the following information:

146.4(1) A brief narrative describing the community council requesting funding.

146.4(2) A brief description of other services provided by the community council.

146.4(3) A statement of the unmet needs to be addressed by the services, including supporting statistics when available.

146.4(4) A description of the prevention services for which funding is being requested which includes but is not limited to the following:

- a. The target population to be served.
- b. Any service eligibility requirements which will be established by the council.
- c. The anticipated source of referrals for the services.
- d. The anticipated number of clients to be served.
- e. A statement of the anticipated measurable outcomes of the service provision and the means of determining these outcomes.
- f. Job descriptions and requirements for any new positions.

146.4(5) The proposed fiscal year budget for the services, other sources of income, plans for future funding of the service, including written commitments when possible, and any anticipated request for funding beyond the first year.

146.4(6) The applicant's statement of co-operation and co-ordination with existing service programs to avoid duplication and share resources. Similar statements from the existing service programs.

146.4(7) Letters of local support, especially from relevant professionals.

770—146.5(69GA, HF2393) Selection of project proposals.

146.5(1) All proposals for funding shall be reviewed by the contractor who shall make recommendations to the advisory council on project selection.

146.5(2) The advisory council shall make the final decision with respect to the approval of project grants.

146.5(3) The following factors will be considered in the contractor's recommendations and in the selection of proposals:

- a. The demonstrated need for the service in the geographical area served.
- b. The community support demonstrated and the co-operation and co-ordination with existing agencies.
- c. The efforts of the project to secure other funding.
- d. The general project structure including but not limited to, how well goals can be met, how realistic the objectives are, the administration of funds, stability of the organization, the overall quality in comparison to other proposals and services offered.

e. The plan for using the funds. The funds may be used only for purposes set forth in 770—146.3(69GA, HF2393).

146.5(4) The applicant may be requested to modify the proposal through the contracting process.

770—146.6(69GA, HF2393) Project contracts. The contractor shall execute a contract with each grantee for the amount of funds awarded to each project. The total amount of funds awarded shall not exceed the amount appropriated for the program less the administrative costs of the contractor. The contract period shall not extend beyond the fiscal year for which the funds were appropriated. The grantee shall submit a Voucher 1 to the contractor by the fifteenth day of the month following the month in which grantee expenses have been incurred. On the Voucher 1, the grantee shall enter the total monthly expenditures for each approved line item established in the project contract. With the Voucher 1 the grantee shall submit receipts for all expenses other than salary expenses. The contractor shall approve reimbursement of all expenses appropriately incurred by the grantee pursuant to the grantee's contract. Approved

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expenditures of the grantee will be reimbursed by the state monthly.

770—146.7(69GA, HF2393) Project records. Grantees shall keep statistical records of services provided and any other records as required by the contractor and specified in the project contract.

770—146.8(69GA, HF2393) Quarterly project progress reports. All grantees shall supply the contractor with quarterly progress reports that include but are not limited to the following information:

146.8(1) The grant dollars expended as they relate to each line item in the budget.

146.8(2) A list of activities completed on schedule.

146.8(3) Any activities not completed on schedule and the reason for the delay.

146.8(4) The number of clients served and the services provided.

146.8(5) The major goals for the next quarter.

146.8(6) Any general comments on the progress of the project.

770—146.9(69GA, HF2393) Evaluation. The contractor and department shall evaluate the grantee's project at least once per year at least two months prior to the end of the contract year to determine how well the purposes and goals of the project are being met. Funds are to be spent to meet project goals as provided in the contract.

770—146.10(69GA, HF2393) Termination. The project contract may be terminated by the grantee at any time during the contract period by giving thirty days' notice to the contractor. The contractor may terminate a project contract upon ten days' notice when the grantee or any of its subcontractors fail to comply with the grant award stipulations, standards, or conditions. Within forty-five days of the termination, the grantee shall supply the contractor with a financial statement detailing all costs up to the effective date of the termination.

770—146.11(69GA, HF2393) Advisory council. The advisory council shall establish specific program goals each fiscal year in which program funds are appropriated. The department shall consult with the advisory council in evaluating the contractor's program administration. The contractor shall obtain approval of the advisory council, pursuant to 770—146.5(69GA, HF2393) prior to awarding project grants. The contractor shall consult with the advisory council in evaluating the effectiveness of funded projects in meeting project goals.

146.11(1) The advisory council shall report at least once each fiscal year to the council on social services as to the operation of the child abuse prevention program. The report shall include all pertinent information regarding the effectiveness of the program projects, the competence of program administration and any recommendations regarding changes in administrative rules governing the program.

146.11(2) Reserved.

These rules are intended to implement Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2393.

[Filed emergency 7/20/82, effective 7/20/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3112

VOTER REGISTRATION
COMMISSION[845]

Pursuant to the provisions of Iowa Code Sections 17A.3(1)"b" and 47.8(1), the Voter Registration Commission hereby adopts the amendment to Chapter 2, of the Iowa Administrative Code entitled "Voter Registration Forms and Instructions" which was approved by the Voter Registration Commission on July 20, 1982.

The proposed rule was published in the June 9, 1982 IAB as ARC 2927.

The purpose of the amendment is to incorporate new rules providing for the use in any county in Iowa of a voter registration by mail form to be printed in a newspaper, completed by a registrant and submitted via the United States Postal Service as an alternative to the registration by mail form prescribed in Chapter 2, IAC.

Revisions to the published notice are as follows:

2.4(1) is changed to limit the publication of the newsprint voter registration by mail form to one form per issue of the newspaper or shopper; and,

2.4(2) is changed by adding a sentence to clarify that the newsprint voter registration form will not be valid if the name of the authorizing county is not included when the form is printed.

The commission also finds pursuant to Iowa Code section 17A.5(2) "b" (2) that the normal effective date of this rule, thirty-five days after publication, should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 27, 1982 as it confers a benefit on the public by increasing the time in which the public could use the newsprint voter registration form to register for the general election from sixteen days (under regular adoption) to ten and one-half weeks. In addition, emergency implementation would allow the public to use the form to register for the school election.

Rule 2.4(48) is intended to implement Iowa Code sections 48.3 and 48.6.

Chapter 2, Voter Registration Forms and Instructions, as printed in the Iowa Administrative Code is amended by adding the following:

845—2.4(48) Newsprint voter registration by mail form.

2.4(1) Notwithstanding the requirements in subrule 2.3(1) paragraphs "c" and "g", a county commissioner of registration may cause one Voter Registration by Mail Form provided for in this chapter to be printed per issue in a newspaper or shopper of general circulation. The newspaper form may be completed and submitted to the commissioner of registration in lieu of the prescribed postcard voter registration by mail form.

2.4(2) The newsprint voter registration by mail form, in addition to the printed matter provided for in rule 2.1(47), shall contain, in the lower right-hand corner on the registration side of the form in bold-faced type not less than one-eighth of an inch in height, the words "THIS FORM TO BE USED BY

(insert name of county)

COUNTY RESIDENTS ONLY".

Any newsprint voter registration form which has not been preprinted to include the name of the authorizing county shall be invalid.

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2.4(3) The instructions provided for in subrule 2.3(1) paragraph "a" shall accompany each newsprint voter registration by mail form.

2.4(4) A newsprint voter registration by mail form or forms shall be enclosed in an envelope in accordance with Iowa Code section 48.3 and mailed by the registrant or registrants by postage paid United States mail to the commissioner of registration of the county named on the newsprint voter registration by mail form.

This rule is intended to implement Iowa Code sections 48.3 and 48.6.

[Filed emergency after Notice 7/27/82, effective 7/27/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3143

COMMERCE COMMISSION[250]

The Iowa State Commerce Commission hereby gives notice, pursuant to Iowa Code Section 17A.4, that on July 30, 1982, the Commission issued an order in Docket No. RMU-81-16, In Re: Revisions of Iowa State Commerce Commission Rules Regarding the I-SAVE Program, "Order Adopting Rules," amending 250—Chapter 27, "Iowa-Save America's Vital Energy," Iowa Administrative Code.

Notice of Intended Action was published in the October 28, 1981 Iowa Administrative Bulletin as ARC 2470. An Amended Notice of Intended Action was published in the December 23, 1981, Iowa Administrative Bulletin as ARC 2582. The finally adopted rules reinstate some rules proposed by the Notice of Intended Action to be stricken; the reinstatement of these rules was required by the United States Department of Energy's adoption of rules affecting the commission's rules. In most other respects, the commission adopted amendments proposed in the Notice of Intended Action, specifically amendments expanding coverage of the I-SAVE program to multifamily dwelling units and commercial buildings, deleting post-installation inspections, and simplifying enforcement procedures. In response to comments made during the rulemaking proceeding, the commission decided not to consolidate chapters 27 and 28 of its rules, but did decide to eliminate renewable resource measures from the program. These and other amendments adopted by the commission are more fully discussed in the commission's "Order Adopting Rules," issued July 30, 1982, in Docket No. RMU-81-16, In Re: Revisions of Iowa State Commerce Commission Rules Regarding the I-SAVE Program.

These rules are intended to implement Iowa Code sections 476.1 and 476.8.

These rules will become effective on January 1, 1983.

ITEM 1. Amend rule 250—27.1(476) by striking the second paragraph and the lists that follow thereafter and by amending the first paragraph to read as follows:

250—27.1(476) Scope and coverage. All electric and gas utilities which have sales, other than resale, exceeding 750 million kilowatt hours of electricity or 10 billion cubic feet of gas and participating home heating suppliers, shall provide a program announcement and shall offer conservation services to their customers who occupy a residential or commercial building containing at least one, but not more than four units, in a manner as provided defined by these rules.

ITEM 2. Strike subrules 27.2(1) to 27.2(8), inserting in lieu thereof the following:

27.2(1) Commission/ISCC means the Iowa state commerce commission.

27.2(2) Covered utility means in any calendar year a public utility which during the second preceding calendar year had either:

a. Sales of natural gas for purposes other than resale which exceeded 10 billion cubic feet, or

b. Sales of electric energy for purposes other than resale which exceeded 750 million kilowatt-hours.

27.2(3) Eligible customer means a person who receives a bill for gas or electricity, supplied by a covered utility and used for a heating or cooling system. An eligible customer may be one of the following:

a. Eligible residential customer means a person who owns or is a tenant in a residential premise containing at least one, but not more than four, dwelling units.

b. Eligible multifamily residential customer means a person who owns or is a tenant in a residential premises containing five or more dwelling units.

c. Eligible commercial customer means a person who owns or is a tenant of a commercial premises which:

(1) Is used primarily for business or government activities;

(2) Is not used primarily for the manufacturing of goods or processing of raw materials or agricultural commodities;

(3) Was billed, during the calendar year 1980, for average monthly usage of less than 4,000 kilowatt hours of electricity or 100 million BTU of natural gas.

ITEM 3. Renumber subrule 27.2(9) as subrule 27.2(4), strike all of paragraphs "a" and "b" of the subrule except the catchwords "Caulking" and "Weatherstripping", and amend the introductory paragraph and paragraphs "c" to "p" of the subrule as follows:

27.2(4) 27.2(4) Energy conservation measures: The term "energy conservation measures" means the following measures in a residential building:

c. Furnace efficiency modifications: The term "furnace efficiency modifications" means:

(1) Replacement furnaces or boilers: The term "replacement furnaces or boilers" means a furnace or boiler, including a heat pump, which replaces an existing furnace or boiler, of the same fuel type and which reduces the amount of fuel consumed due to an increase in combustion efficiency, improved heat generation or reduced heat losses.

(2) Furnace replacement burner (oil): The term "furnace replacement burner (oil)" means a furnace or boiler, including a device which atomized the fuel oil, mixes it with air, and ignites the fuel air mixture, and is an integral part of an oil-fired furnace or boiler including the combustion chamber, and which because of its design, achieves a reduction in the oil used from that used by the device which it replaces.

(3) (2) Flue opening modification: The term "flue opening modification" means an automatically operated damper installed in a gas-fired furnace (often called a vent damper) which:

Is installed downstream from the draft hood, and
Conserves energy by substantially reducing the flow of heated air through the chimney when the furnace is not in operation.

(4) (3) Electrical or mechanical ignition system: The term "electrical or mechanical ignition system" means a device which, when installed in a gas-fired furnace or boiler, automatically ignites the gas-burner and replaces a gas pilot light.

d. Replacement central air conditioner: The term "replacement central air conditioner" means a more efficient central air conditioner which replaces an existing central air conditioner of the same fuel type and which reduces the amount of fuel consumed due to an increase in efficiency unit.

e. Ceiling insulation: The term "ceiling insulation" means a material primarily designed to resist heat flow which is installed between the conditioned area of a building and an unconditioned attic. Where the conditioned area of a building extends to the roofs, the term "ceiling

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insulation" also applies to such material used or between the underside and upperside of the roof.

f. Wall insulation: The term "wall insulation" means a material primarily designed to resist heat flow which is installed within or on the walls between conditioned areas of a building and unconditioned areas of a building or the outside.

g. Floor insulation: The term "floor insulation" means a material primarily designed to resist heat flow which is installed between the first level conditioned area of a building and an unconditioned basement, a crawl space or the outside beneath it. Where the first level conditioned area of a building is on a ground level concrete slab, the term "floor insulation" also means such material installed around the perimeter of or on the slab. In the case of mobile homes, the term "floor insulation" also means skirting to enclose the space between the building and the ground.

h. Duct insulation: The term "duct insulation" means a material primarily designed to resist heat flow which is installed on a heating or a cooling duct in an unconditioned area of a building.

i. Pipe insulation: The term "pipe insulation" means a material primarily designed to resist heat flow which is installed on a heating or cooling pipe in an unconditioned area of a building.

j. Water heater insulation: The term "water heater insulation" means a material primarily designed to resist heat flow which is suitable for wrapping around the exterior surface of the water heater casing.

k. Storm window: The term "storm window" means a window or glazing material placed on a outside or inside an ordinary or prime window, creating an air space, to provide greater resistance to heat flow than the prime windows alone.

l. Thermal window: The term "thermal window" means a window unit, perhaps having an insulating frame and sash, and with improved thermal performance through the use of two or more sheets of glazing material sheets affixed to a window frame to create one or more insulated air spaces. It may also have an insulating frame and sash.

m. Storm or thermal door: The term "storm or thermal door" means:

- (1) A second door, installed outside or inside with a prime door, creating an insulating air space;
- (2) A door with enhanced resistance to heat flow through the glass area by affixing two or more sheets of glazing material; or
- (3) A prime exterior door with an R-value of at least 2.

n. Heat reflective and heat absorbing window or door material: The term "heat reflective and heat absorbing window or door material" means a window or door glazing material with exceptional heat absorbing or heat-reflecting properties; or reflective or absorptive films and coatings applied to an existing window or door which thereby result in or glazing material with exceptional heat-absorbing or heat-reflecting properties.

o. Devices associated with electric load management techniques: The term "devices associated with electric load management techniques" means customer-owned or leased devices that reduce the maximum kilowatt demand on an electric utility and which are either:

- (1) Part of a radio, ripple or other utility controlled load switching system on the customer's premises;
- (2) Clock-controlled load switching devices;

(3) Interlocks, and other load-actuated, load-limiting devices, or

(4) Energy storage devices with control systems.

p. Clock thermostat: The term "clock thermostat" means a device which is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed, and uses:

(1) A temperature control device for interior spaces incorporating more than one temperature control level; and

(2) A clock or other automatic mechanism for switching from one control level to another.

ITEM 4. Add a new paragraph, "q", to subrule 27.2(9) as follows:

q. Heat pump water heater systems means a device to heat water for domestic use by removing energy from the air.

ITEM 5. Strike subrules 27.2(10) to 27.2(12), substituting in lieu thereof the following renumbered subrule 27.2(5):

27.2(5) Energy conserving practices means:

- a. Furnace efficiency maintenance and adjustments.
- b. Nighttime temperature setback.
- c. Reducing thermostat settings in winter.
- d. Raising thermostat settings in summer.
- e. Water flow reduction in showers and faucets.
- f. Reducing hot water temperatures.
- g. Reducing energy use when a home is unoccupied.
- h. Plugging leaks in attics, basements, fireplaces, switch plates and wall plates.
- i. Sealing leaks in pipes and ducts.
- j. Efficient use of shades and drapes.

ITEM 6. Renumber subrule 27.2(13) as subrule 27.2(9) and amend it to read as follows:

~~27.2(13)~~ 27.2(9) Program audit: The term "program audit" means an energy audit in which the estimates of costs and are made on an onsite inspection of the residence premises of an eligible customer by an qualified auditor, qualified according to a state or nonregulated utility plan.

ITEM 7. Strike subrules 27.2(14) to 27.2(16) and renumber subrule 27.2(17) as subrule 27.2(7).

ITEM 8. Renumber subrule 27.2(18) as subrule 27.2(6), strike paragraphs "a", "b" and "c" of the subrule, and amend the introductory paragraph to read as follows:

~~27.2(18)~~ 27.2(6) Measures warranty: The term "measures warranty" means, at a minimum, a manufacturer's, supplier's or contractor's warranty which satisfies the requirements of the definition of "measure warranties" contained in 10 CFR 456.105(j) as amended.

ITEM 9. Renumber subrule 27.2(19) as subrule 27.2(8) and amend the subrule to read as follows:

~~27.2(19)~~ 27.2(8) Program announcement: The term "program announcement" means residential conservation service I-SAVE program information and offer of services that are required to be mailed or delivered by a covered utility to each eligible customer by rule 27.6(476).

ITEM 10. Strike subrules 27.2(20) and 27.2(22) and renumber subrule 27.2(21) as subrule 27.2(10).

ITEM 11. Strike rule 27.3(476).

ITEM 12. Renumber rule 27.4(476) as rule 27.3(476) and strike subrules 27.4(1) to 27.4(4).

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ITEM 13. Strike rule 27.5(476).

ITEM 14. Renumber rule 27.6(476) as 27.4(476) and amend it to read as follows:

~~250-27.6~~ 27.4(476) Program announcements.

~~27.6(1)~~ 27.4(1) Each covered utility and participating home heating supplier shall send to each eligible customer a program announcement within six months after approval of the state plan by the department of energy.

~~27.6(2)~~ 27.4(2) This program announcement shall be sent out every two years after the initial distribution of the conditional announcements until January 1, 1985.

~~27.6(3)~~ 27.4(3) Each new customer; a person who becomes an eligible customer after the initial distribution of the program announcement; shall receive a program announcement within sixty days of becoming a new customer, and every two years thereafter until January 1, 1985.

~~27.6(4)~~ 27.4(4) The content of the program announcement shall contain the following elements, as a minimum:

a. A list of all program energy conservation and state measures, with an estimate of savings in energy costs, which are likely to be produced in one year, expressed in ranges of dollars or percentages; and a statement to the effect that the total energy savings may be less than the sum of the cost savings projected for the individual measures;

b. A list of all energy conserving practices, a statement that they are of low or no cost, and an estimate of savings in energy costs, which are likely to be produced in one year expressed in ranges of dollars or percentages.

c. An offer and description of the program audits, including an offer to arrange installation arrangement service, financing arrangement service, and to supply contractor, lender and supplier lists.

The description of each services shall include information on how a customer may obtain each service; the direct cost, if any; and the scope of benefits included in that service. The direct cost to the requesting consumer for the program audit and related services, which shall not exceed \$15.00 for eligible residential customers and shall reflect the utility's actual audit costs for eligible multifamily residential and commercial customers.

d. Inclusion of the following disclosure or its equivalent: "Energy savings depend on many factors. The estimates contained in this announcement are based on estimates for typical houses premises. Your costs and savings will be different if your house is a different premises size or type, if your family is a different size or if your energy using habits are different from those we assumed. The energy audit which we offer will provide more specific estimates for your house premises."

e. A brief explanation of the benefits of any federal and state energy credits; and

f. A brief description of the benefits of the weatherization assistance program for low income persons, 10 CFR Part 440, and a brief description of who is eligible for such assistance.

~~27.6(5)~~ No advertising for sale, installation, or financing by any supplier, contractor or lender of any energy conservation measure, renewable resource measure, state measure or energy conserving practice may be included in the program announcement. If a covered utility finances the sale or installation of such measures or practices, the program announcement may so state.

~~27.6(6)~~ 27.4(5) No information regarding any product which is not an energy conservation measure; a

renewable resource measure, state measure or any energy conservation conserving practice may be included in the program announcement.

~~27.6(7)~~ 27.4(6) All program announcements must be submitted for approval to the Iowa state commerce commission prior to distribution.

~~27.6(8)~~ 27.4(7) The energy audits may be offered to customers on a conditional nondiscriminatory basis. All customers who receive a conditional offer of any audit must receive an unconditional offer of an audit within two years. The utilities will submit their plans for distributing the unconditional announcements and scheduling the audits to the Iowa state commerce commission prior to implementation.

~~27.6(9)~~ 27.4(8) The calculation procedures for the cost and savings estimates for all program measures and practices contained in the program announcement will be approved by the Iowa state commerce commission. This will assure that all program announcements in the state will be consistent. (see Appendix)

~~27.6(10)~~ 27.4(9) All estimates in the program announcement will be based on recent prices and appropriate climatological data for the state.

~~27.6(11)~~ 27.4(10) The announcement may contain a statement similar to the following: "This offer to perform an energy audit and to provide related benefits is in compliance with the residential conservation service program pursuant to Part I of Title II of the National Energy Conservation Policy Act Iowa state commerce commission rules. Every 'covered utility' and 'participating home heating supplier' is required to provide each eligible customer with a program announcement. If you receive service from more than one covered utility, you will receive more than one announcement; you and may request an audit from either utility. A request for a second audit will be performed at actual cost."

ITEM 15. Renumber rule 27.7(476) as rule 27.5(476), and amend subrule 27.7(1) of the newly renumbered rule 27.5(476) to read as follows:

~~250-27.7~~ 27.5(476) Program audits.

~~27.7(1)~~ 27.5(1) Timing and preconditions.

a. Each covered utility and participating home heating supplier shall provide a program audit to an eligible customer within thirty days of the customer's request in response to an unconditional offer of an audit. Requests for extensions of time within which to perform audits will be considered when audit requests substantially exceed the utilities capability to perform the audits in the required time; but in any event shall not exceed sixty days.

b. Each covered utility and participating home heating supplier shall inform and provide to each new customer, upon request, a copy of the last program audit performed on the customer's residence premises within the previous two years. If the new customer requests an additional audit and the previous audit had been performed within the previous two-year period, such audit will be performed at actual cost to the new customer.

c. Covered utilities and participating home heating suppliers are prohibited from preconditioning a program audit in any manner.

d. Covered utilities and participating home heating suppliers shall not discriminate unfairly among eligible customers in providing program audits.

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ITEM 16. Amend newly renumbered subrule 27.5(2) by deleting paragraphs "b", "g" and "k", and relettering the remaining paragraphs as paragraphs "a" through "h".

ITEM 17. Amend newly renumbered subrule 27.5(2), paragraph "a" to read as follows:

~~27.5(2)~~ 27.5(2) Content of program audit.

a. General. Each covered utility ~~and a participating home heating supplier~~ shall; ~~at a minimum~~, provide to each eligible customer, *upon request*, a comprehensive program audit which addresses all energy conserving practices; *and* energy conservation measures ~~and renewable resource measures upon request by an eligible customer~~. In each program audit, the auditor shall determine, ~~which of the energy conserving practices would save energy in the residence~~, explain, ~~and emphasize~~, the importance of such practices and recommend ~~that they be performed before the installation of any measure the energy conserving practices which would save energy in the premises~~.

The auditor shall ~~then~~ determine the applicability of each *energy conservation program* measure in ~~that residence; the premises~~. ~~If a program measure is not applicable, then the requirements of this section to provide estimates of the cost and savings of installation in such residence do not apply.~~

ITEM 18. Amend newly renumbered subrule 27.5(2), newly relettered paragraph "b", subparagraph (2) by striking the first and second column entries beginning with (and including) the entry for "Active domestic hot water systems" and ending with (and including) the entry for "Wind energy systems," so that the entry for "Clock thermostat" immediately precedes "Caulking & weatherstripping."

ITEM 19. Amend newly renumbered subrule 27.5(2), newly relettered paragraph "c" by deleting subparagraph (3) and amending subparagraphs (2) and (4) to read as follows:

(2) Economic calculations shall be based on typical recent local electric rates, ~~typical recent local~~ fuel prices, ~~typical recent local~~ prices for materials and installation of program measures, and ~~typical recent local~~ climate data for the eligible customer's location;

(4) Any cost and savings estimate for ~~any applicable~~ furnace efficiency modification to a gas or oil furnace or boiler shall be based on an evaluation of the seasonal efficiency of ~~such the~~ furnace or boiler. This seasonal efficiency shall be based on an estimated peak (tuned-up) steady state efficiency corrected for cycling losses. Steady state efficiency shall be derived either from manufacturer's design data and observation of furnace components or by calculation of the combustion efficiency of the furnace or boiler. Where visual observation by the auditor shows poor operation, calculation of combustion efficiency shall be made.

ITEM 20. Amend newly renumbered subrule 27.5(2), relettered paragraph "d" to read as follows:

e. Procedure to assure the validity of the program audit. The *state commission* shall approve all procedures of a covered utility ~~and participating home heating suppliers~~ governing the measurements or inspections that an auditor must make in an eligible customer's residence and the calculations which must be performed in making energy cost savings estimates. Such procedures shall be submitted to the *state commission* at least *sixty thirty*

days prior to ~~initial distribution of program announcements use of the procedures~~. The *state commission* shall approve or disapprove ~~such the~~ procedures within ~~sixty thirty~~ days of submittal. The model calculation procedure contained in the I-SAVE plan may be used by the utilities without further validation. Should a utility desire to use procedures different from those specified, such procedures must be submitted to the *state commission* for validation. Factors which will be considered by the *state commission* in validating an alternative methodology include completeness of procedure (all measures addressed), accuracy and consistency of methodology and procedures based on accepted engineering practices.

Each covered utility ~~and participating home heating supplier~~ shall provide the *state commission* a quarterly update of typical recent local electricity rates, ~~typical recent local~~ fuel prices, ~~typical recent local~~ prices for materials and installation of program measures and ~~typical recent local~~ climate data. Such information shall be obtained from existing utility records and a periodic survey of participating contractors. ~~Such information will be used by the ISCC to update and modify the calculation procedures.~~

ITEM 21. Amend newly renumbered subrule 27.5(2), newly relettered paragraph "e", by striking subparagraphs (8) to (10) and amending subparagraphs (2), (3) and (5) to (7) to read as follows:

(2) An estimate of the total cost, expressed in dollars or *in a range of dollars*, of installation by the customer of each applicable ~~program energy conservation~~ measure, other than replacement central air conditioners and wall insulation, addressed in the program audit; ~~A covered utility or participating home heating supplier shall not provide any estimate to any eligible customer of the cost to purchase furnace efficiency modifications, devices associated with load management techniques, or wind energy devices for installation by the eligible customer;~~

(3) An estimate of the savings in energy costs, expressed in dollars or a range of dollars, which would occur during the first year from installation of each applicable ~~program energy conservation measure~~ addressed by the program audit. In addition, a separate estimate which reflects a discounted payback (breakeven) analysis of each recommended measure will be presented. The methodology for calculating payback periods ~~is outlined in the appendix and has been~~ shall be approved for use by the ISCC. ~~Alternative methodologies must be submitted to the ISCC for approval.~~

(5) The following disclosure: "The procedure used to make these estimates has been evaluated by the ISCC for accuracy. However the actual installation costs you incur and energy savings you realized from installing these measures may be different from the estimates contained in this audit report. Although the estimates are based on observations or measurements of your *house premises*, they are also based on assumptions which may not be totally correct for your *household*.";

(6) An estimate of the annual normal maintenance costs; ~~if any~~, of each applicable ~~program energy conservation~~ measure;

(7) The possible economic benefits to the eligible customer of existing federal and state tax incentives with; ~~at a minimum~~, one sample of the effect of the tax benefit on the cost to the customer of installing one applicable energy conservation program measure ~~and one applicable renewable resource program measure~~;

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ITEM 22. Amend newly renumbered subrule 27.5(2), newly relettered paragraph "f" to read as follows:

h f. Additional information to be provided during an audit. The auditor shall present the following information as a minimum to the eligible customer during, or upon completion of, the program audit:

(1) ~~An explanation of the benefits and services listed in the state plan and a brief description of how the eligible customer can qualify for such benefits and services.~~

(2) The lists of contractors, suppliers and lenders developed pursuant to the state plan these rules for the applicable program energy conservation measures.

(3) An explanation of the benefits of the weatherization assistance program for low income persons, 10 CFR Part 440, and a brief description of who is eligible for such assistance.

ITEM 23. Amend newly renumbered subrule 27.5(2), newly relettered paragraph "g" to read as follows:

i g. Prohibitions and disclosure required for program audits. The auditor shall comply with the following:

(1) The auditor is prohibited from estimating, ~~as part of any program audit provided pursuant to the state plan,~~ the costs or energy cost savings of installing any product which is not an energy conserving practice or an program energy conservation measure.

(2) The auditor is prohibited from recommending any supplier, contractor or lender who supplies, installs, or finances the sale or installation of for any program energy conservation measure, if such recommendation would unfairly discriminate among such suppliers, contractors or lenders. ~~If a covered utility or participating home heating supplier, which arranged the audit, supplies, installs or finances the sale of installation of program measures, the auditor may so state.~~

(3) ~~Any unfair discrimination among program measures is prohibited.~~

(4) ~~Each energy~~ The auditor shall provide the eligible customer with a written statement of any substantial interest which the person or the person's employer has, directly or indirectly, in the sale or installation of any program energy conservation measure.

ITEM 24. Amend newly renumbered subrule 27.5(2), newly relettered paragraph "h" to read as follows:

j h. Preaudit informational questionnaire. A covered utility or a participating home heating supplier may request an eligible customer who has requested a program audit to submit information in the form of a questionnaire provided ~~such questionnaire is not a precondition of a program audit and the questionnaire is approved by the state commission. Such information may be obtained by mail or telephone.~~

ITEM 25. Renumber rule 27.8(476) as rule 27.6(476), strike subrules 27.8(4) to 27.8(6), and amend newly renumbered subrule 27.6(1) to read as follows:

~~27.8(1)~~ 27.6(1) Qualification of auditors. Each person who performs a program audit pursuant to this plan shall:

a. Be qualified according to the applicable procedures in ~~27.8(2) 27.6(2) (minimum auditor qualification requirements)~~ of the state plan.

b. Be under contract or subcontract to, be an employee of, or be an employee of a contractor or subcontractor to, a covered utility or participating home heating supplier.

ITEM 26. Amend newly renumbered subrule 27.6(2) to read as follows:

~~27.8(2)~~ 27.6(2) Minimum auditor qualification requirements. ~~In order to be a qualified program auditor under this plan, an individual shall meet the following requirements: A qualified auditor shall:~~

ITEM 27. Amend newly renumbered subrule 27.6(2), paragraph "a" by deleting subparagraphs (7) and (8) and amending paragraph "a" and subparagraphs (1) to (6) to read as follows:

a. Complete a state commission-approved training course that provides the following:

(1) General understanding of the three types of heat transfer and the effects of temperature and humidity on heat transfer.

(2) General understanding of residential or commercial building construction terminology and components.

(3) General knowledge of the operation of the heating and cooling systems used in the residential or commercial buildings.

(4) General knowledge of the different types of each applicable program energy conservation measure; of the advantages, disadvantages, and applications of each; and of any installation standards prescribed for the RCS I-SAVE program.

(5) Capacity to conduct the audit according to the procedures described in rule 27.75(476) (program audits) including: Familiarity with energy conserving practices prescribed in these rules state plan; capability of determining applicable program energy conservation measures, and proficiency in audit procedures for each applicable program measure.

(6) Where a furnace efficiency modification is an applicable program energy conservation measure, and the source of fuel for the existing furnace or boiler is either gas or oil, a working ability to calculate the steady state efficiency of the furnace or boiler as required by 27.75(2) "dc" (4) (cost estimate).

ITEM 28. Amend newly renumbered subrule 27.6(2), paragraph "b" by striking the third, fourth, fifth and sixth unnumbered paragraphs thereof, amending the first two paragraphs and adding a new third paragraph as follows:

b. Successfully demonstrate his/her qualifications in appropriate written or practical examinations to be administered by the training organization selected by each covered utility and participating home heating supplier and approved by the state commission.

Upon successful completion of the training and examination requirements, the candidate shall be provided with a certificate of qualification by the state commission which shall be valid for two years.

The commission shall review and approve or disapprove proposed auditor training and testing programs by covered utilities within thirty days after submission. If the program is disapproved, the utilities will have thirty days within which to amend and resubmit the proposed program.

ITEM 29. Amend newly renumbered subrule 27.6(3) by striking the word "state" in the second and fifth lines and substituting in lieu thereof the word "commission" and by striking the words "or inspector" at the end of the third and beginning of the fourth lines thereof.

ITEM 30. Renumber subrule 27.8(7) as subrule 27.6(4) and amend the subrule to read as follows:

~~27.8(7)~~ 27.6(4) Reciprocity of auditors. An Auditor certified in another states with a DOE approved state plan may be authorized to conduct program audits in

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Iowa provided the auditor has a certificate from the auditor's home state. Such a certificate shall be issued if the candidate successfully demonstrates his/her qualifications in appropriate written or practical examinations administered by the state.

ITEM 31. Renumber rule 27.9(476) as rule 27.7(476) and amend the newly renumbered subrule 27.7(1) by striking the second and third sentences thereof.

ITEM 32. Amend renumbered subrule 27.7(1), paragraph "b" by deleting subparagraphs (4), (7) and (10), renumbering the remaining subparagraphs in numerical order and amending them and the introductory paragraph "b" as follows:

b. Criteria for inclusion. ~~The listing agency assures that~~ All persons who agree to comply with the following requirements (unless the governor (or his designee) commission determines that such the person's agreement is not adequate assurance of compliance with the requirement section) ~~and only such persons are will be~~ included in the initial master record, and thereafter in the existing master record within a reasonable time after applying for inclusion.

All installation contractors included in the master record shall:

(1) Comply with any materials and installation standards as contained in 10 CFR 456, subparts "g", "h", and "i", and any applicable federal, state or local standards pertaining to the materials used in and installation of any program energy conservation measure installed;

(2) Install only measures which carriesy the measure warranties described in 27.2(186)"a", "b", and "c". (No measures warranty is necessary for caulking and weatherstripping);

(3) Furnish the customer with a written contract detailing the job to be performed and its cost and certifying that any applicable requirements for installation and material standards will be complied with met;

(54) Include in every contract a guarantee that the contractor will correct any violation of any installation standard without cost to the customer a measures warranty as defined by these rules;

(65) Provide public liability and property damage coverage. The applicant must provide proof of such coverage which includes at a minimum:

Bodily injury—\$100,000 per person

\$300,000 per occurrence

Property damage—\$100,000 per occurrence

(86) Comply with all applicable federal, state and local laws and regulations; and

(97) Agree to participate in good faith in the commission's conciliation complaint proceedings when there is a complaint by an eligible customer against such person; and.

ITEM 33. Amend renumbered subrule 27.7(1), paragraph "c" by deleting subparagraph (2), renumbering the remaining subparagraphs in numerical order, and amending subparagraph (1) and newly renumbered subparagraphs (3) and (4) as follows:

(1) Supply program energy conservation measures that carry the measures warranty as defined in 27.2(186)"a" and "b".

(3) Have a method for informing customers of those products supplied that are program energy conservation measures and that have a measures warranty (except for caulking and weatherstripping) and that meet any applicable RCS standards; and

(4) Agree to participate in good faith in the conciliation commission's complaint proceedings when there is a complaint by an eligible customer against such person.

ITEM 34. Amend newly renumbered subrule 27.7(1), paragraph "d", subparagraph (4) as follows:

(4) Agree to participate in good faith in the conciliation commission's complaint proceedings when there is a complaint by an eligible customer against such person.

ITEM 35. Amend newly renumbered subrule 27.7(1), paragraph "e" as follows:

e. Criteria for removal from master record of suppliers, contractors, and lenders.

The listing agency shall ensure that all persons in the master record who fail to comply with the requirements for inclusion are removed from the master record. Removal procedures shall ensure that:

(1) Each person proposed for such removal shall have:

1. Written notice of the proposed removal and the grounds for such removal at least thirty days before the actual removal;

2. Thirty days to respond in writing to the allegations; and.

3. With respect to installers, access to the records of the listing agency regarding the inspections of the work of such installer.

(2) Each person removed from the master record shall have an opportunity to file a complaint through and participate in redress proceedings and civil action for the purpose of contesting such removal, by filing a complaint pursuant to chapter 6 of the commission's rules.

(3) Any person(s) included on the master record may be removed for the following reasons:

1. Any supplier, contractor or lender accepted for inclusion on the master record may be removed for violations of any provision cited in 27.97(1)"b", "c" or "d" (criteria for inclusion);

2. A customer complaint through the conciliation process may lead to removal from the master record. The supplier, contractor or lender shall have thirty days to correct the a violation as determined at the end of the conciliation found during the complaint process. If the violation is not corrected during the thirty-day period, delisting shall be automatic; and

3. A post-installation inspection which reveals a violation may lead to removal from the master record. The contractor shall have thirty days after written notification to correct the violation the inspector reports. If no response is made during the thirty days, delisting shall be automatic; and

4. Any violation which results in a hazard to health shall be corrected within three days of notification to the contractor. If no correction is made in that time period, delisting shall be automatic.

ITEM 36. Amend newly renumbered subrule 27.7(3) as follows:

~~27.9(8)~~ 27.7(3) Distribution of lists. The state plan requires that Every covered utility and participating home heating supplier shall provide, upon request to every eligible customer, lists of all suppliers, contractors and lenders included in the master record who sell, install or finance program energy conservation measures in their service area or such other reasonable area approved by the ISCC.

ITEM 37. Amend renumbered subrule 27.7(4) to read as follows:

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~~27.9(4)~~ 27.7(4) Procedures for updating lists. The updating of the master record shall be the responsibility of the Iowa state commerce commission. Utilities ~~and home heating suppliers~~ shall provide such information as necessary concerning their respective service areas. Additions and deletions to the master record shall be issued by the ISCC to the covered utilities ~~every thirty days quarterly~~ with new lists to be published every six months.

ITEM 38. Renumber rule 27.10(476) as rule 27.8(476), strike all subrules thereof and substitute in lieu thereof the following:

Each covered utility shall, upon request of an eligible customer, provide information the customer needs to understand how to select and enter into a contract to install an energy conservation measure, provided that information offered by the utility does not cause unfair discrimination among suppliers, contractors or energy conservation measures.

ITEM 39. Renumber rule 27.11(476) as rule 27.9(476). Eliminate the phrase "or participating home energy supplier" from renumbered subrule 27.9(1) and the phrase "or participating home heating supplier" from the following renumbered subrules:

27.9(3); 27.9(4); 27.9(5); 27.9(6); 27.9(7).

ITEM 40. Amend newly renumbered subrules 27.9(1), 27.9(4), 27.9(5), 27.9(6) and 27.9(7) by eliminating the phrase "program measure(s)" and substituting in lieu thereof the phrase "energy conservation measure(s)".

ITEM 41. Amend newly renumbered subrule 27.9(8) and paragraphs "a", "c" and "f" to read as follows:

~~27.11(8)~~ 27.9(8) Utility financing. If requested to do so, a covered utility shall provide financing for energy conservation ~~and renewable resource~~ measures as a utility service. However, such financing shall be provided only in accordance with the following requirements:

a. Projects eligible for utility financing must be energy conservation measures as defined in subrule 27.2(94) ~~or renewable resource measures as defined in subrule 27.2(16)~~, and must have a payback period, calculated by an approved methodology as part of a home energy audit under the I-SAVE plan, of seven years or less.

c. Borrowers must be unable to arrange financing with a bank, savings and loan, or other lending institution. If initial attempts by a covered utility or borrower to arrange financing with a lender are unsuccessful, the utility may attempt to arrange financing with other lenders before providing the financing itself. However, if the utility or borrower is unable to arrange financing under rule 27.119(476) within sixty days of the request for such arrangement, the utility shall be required to provide financing if the other requirements of subrule 27.119(8) are met.

f. Loans made by the utility shall be repaid with the consumer's periodic utility bill, consistent with the requirements of ~~subrule 27.14(2)~~ 11(476).

ITEM 42. Strike rule 27.12(476).

ITEM 43. Renumber rule 27.13(476) as rule 27.10(476), strike all subrules thereof and substitute, in lieu of the subrules, the following:

An eligible customer may ask the commission to resolve a complaint against any person who sold, installed or financed the sale or installation of any energy conservation measure pursuant to the I-SAVE program, by filing a complaint in accordance with chapter 6 of the commission's rules. An eligible customer claiming damages for

an injury arising out of an activity carried out under the I-SAVE program shall file the claim with the district court.

ITEM 44. Renumber rule 27.14(476) as rule 27.11(476), strike all subrules thereof substituting, in lieu of the subrules, the following:

In the case of any loan made or arranged by a covered utility, the covered utility shall permit repayment of the loan as part of the periodic utility bill for a period of not less than three years, unless the customer chooses a shorter repayment period, and provided the customer agrees to pay at least five dollars per month. The following rules apply to the covered utility's loan repayment billing procedure:

1. The utility shall identify the charges and list them separately on the customer's utility bill or other periodic bill;

2. All payments received shall first be charges to pay for the purchase of utility or fuel service and only the excess shall be credited to charges for repayments, unless the customer requests an alternative distribution of payments.

3. A listed lending institution may require a lump sum payment of outstanding principal and interest upon default by the eligible customer, but no penalty shall be imposed by the lender for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

4. A covered utility may recover from the lender the cost incurred by the utility in carrying out such manner of repayment.

5. No covered utility shall terminate or otherwise restrict utility service to any customer defaulting on payments billed pursuant to this rule.

ITEM 45. Strike rules 27.15(476) to 27.20(476).

ITEM 46. Add the following new rules to chapter 27. 250—27.12(476) Accounting.

27.12(1) General procedures. All costs and revenues directly attributable to the I-SAVE program shall be separately accounted for by a covered utility. Covered utilities shall utilize the uniform system of accounts as prescribed in Title 18, CFR Parts 101, 104, 201 and 204, for those utilities using FERC uniform systems of accounts. Covered rural electric cooperatives shall utilize the REA uniform system of accounts as prescribed in Title 7, CFR Part 1701, Appendix A.

27.12(2) Program expenses.

a. All amounts expended by a covered utility for the I-SAVE program shall be charged to unique subaccounts within account 908, customer assistance expenses, or its successor.

b. Records shall be maintained under this account to support reporting requirements specified in rule 27.13(476) allowing identification of costs attributable to:

(1) Program information; and

(2) Program audits (by type).

27.12(3) Program revenues.

a. All revenues or billed income, received by a covered utility, attributable to the I-SAVE program, shall be charged to unique subaccounts within account 456, other electric revenues (for electric utilities) or account 495, other gas revenues (for gas utilities) or their successors.

b. Records shall be maintained under this account to support the reporting requirements specified in rule 27.13(476).

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250—27.13(476) Reporting.

27.13(1) General reporting guidelines. Two reports shall be filed annually. One report shall define the utility's I-SAVE plan and include measurable goals and targets. The second report shall define the results of the I-SAVE program.

27.13(2) I-SAVE program plan report.

a. Each utility shall submit an I-SAVE program plan annually by July 1. The plan shall normally cover a calendar year.

b. Each utility shall identify the overall energy savings goals by program measure that are anticipated from the I-SAVE program for the following year.

c. Each utility shall estimate the number of audits to be performed for the next year by category of eligible customers.

d. Each utility shall estimate the costs and revenues of the I-SAVE program for the next year.

27.13(3) Data collection.

a. Data collection. Each covered utility shall identify and gather responses from a representative sample of five percent of the total number of customers utilizing I-SAVE audits. In addition, the covered utility shall identify a similar number of its customers who have not utilized I-SAVE audits. The commission shall provide a standardized form for use by the utility in recording responses from customers in the sample groups. These data, separated between I-SAVE participants and non-participants, will identify the following:

(1) Identification, by observation number only, of those customers in the samples who installed or implemented a specific program measure or practice.

(2) Identification of the fuel used for space heating and the type of heating/cooling plant in the premises; and

(3) The amount of fuel purchased (electricity and natural gas) for a twelve-month period before and after the audit or for a comparable time period for nonparticipating customers.

b. Reserved.

27.13(4) I-SAVE program results report.

a. Each utility shall submit annually a report documenting the results of its I-SAVE activities for the previous year. This report shall be submitted annually by July 1.

b. Each results report shall contain:

(1) The data generated in 27.13(3)"a";

(2) Description of the utility's educational program activities, and a discussion of the overall effectiveness of each;

c. In a separate section, each utility shall identify the following:

(1) The approximate number of eligible customers and, if available, the percentage of those customers for whom the utility is the primary heating supplier.

(2) A copy of the program announcements distributed to eligible customers.

(3) The number of eligible customers who have requested program audits.

(4) The number and function of people assigned to the utility's I-SAVE program, including part-time employees.

(5) The utility costs incurred and revenues received by eligible customer group, in providing information under the I-SAVE program.

250—27.14(476) Recordkeeping.

27.14(1) Responsibility. Each utility shall be responsible for maintaining records sufficient to support the

reporting requirements identified above. These records shall be made available to the commission or other designated person upon request.

27.14(2) Other specific requirements. The following records shall be maintained for a period of five years.

a. The name and address of each eligible customer who receives a program audit.

b. A copy of the data collected during the audit, and a copy of the estimates of costs and savings presented to the customer.

c. The amount and cost of fuel purchased for the twelve-month period prior to and the twelve-month period following each program audit.

d. The names of the individuals who have met the qualification criteria described in subrule 27.6(1).

250—27.15(476) Co-ordination. In order to minimize duplication of statewide energy conservation services and programs, the commission will co-ordinate the related activities of the program.

[Filed 7/30/82, effective 1/1/83]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3148**EMPLOYMENT SECURITY[370]**

(JOB SERVICE)

Pursuant to Iowa Code Sections 96.11 and 17A.3, the Iowa Department of Job Service hereby adopts amendments to Chapter 3, "Employer's Contribution and Charges", Iowa Administrative Code.

These rules are identical to those published as ARC 2964 in IAB, Number 25, dated June 9, 1982.

Subrule 3.40(2), paragraphs "a" and "e" were previously changed to allow the employer full credit for all contributions (tax) received by the date that the new tax rates are computed so that the employer could possibly receive a better tax rate. Subrule 3.41(1) is now changed to define the computation date and explain that payments made for periods prior to the computation date will be counted in the computation if made by September 30 following the computation date. This rule change is necessary to reflect and conform to the previous change.

Current language of subrule 3.43(10), paragraphs "a", "b" and "e" is being updated to include reference to setting up overpayments, method of notification to the individual of the decision and clarifying that the billing statements are not sent until the overpayment decision is final.

These rules were adopted July 28, 1982, and will become effective September 22, 1982.

These rules are intended to implement Iowa Code sections 96.3(7), 96.7(3)"b" and 96.19(21).

The following rules were adopted.

EMPLOYMENT SECURITY[370] (cont'd)

ARC 3149

EMPLOYMENT SECURITY[370]

(JOB SERVICE)

Pursuant to Iowa Code Sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby adopts amendments to Chapter 7, "Job Placement Services", Iowa Administrative Code.

This rule change requires that employers furnish their employer account number for identification purposes when placing a job order with job service. Sole proprietors who have no account number must furnish their social security number. New employers unable to provide either type of identification will be asked to provide names and addresses of immediate area employers for purposes of verifying their place of business. Employers placing job orders will be subject to computer verification of existing records. Where discrepancies are discovered, the employer will be subject to discontinuation of services through Iowa department of job service.

This rule is identical to that published as ARC 2966 in IAB, Number 25, dated June 9, 1982. It was adopted July 23, 1982, and will become effective September 22, 1982.

This rule is intended to implement the Code of Federal Regulations, Part IX, Chapter 20, Sections 651.1, 653.5, and 658.502, dated January 23, 1981.

Amend rule 370—7.3(96) by adding subrules as follows:

7.3(19) The employer job order, form ISES-514A-B, accepted by job service shall contain the employer account number for purposes of providing employer identification of new accounts.

7.3(20) Sole proprietors not having an employer account number will be asked for their social security number for purposes of providing employer identification.

7.3(21) New employers not providing either employer account number or social security number will be asked to provide the names and addresses of adjoining or immediate area employers for purposes of establishing their place of business.

7.3(22) New employers unable to provide identification as required in 7.3(19), 7.3(20), and 7.3(21) above will be subject to other such investigation as the agency shall determine.

7.3(23) Employer account numbers will be cross-checked with information now on file through computer verification procedures. Employer files will be updated and corrected as new employer information is collected.

7.3(24) Neither the Employment and Training Administration of the United States Department of Labor nor the Iowa department of job service are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. No job order accepted constitutes an offer to contract to which the Employment and Training Administration of the United States Department of Labor or the Iowa department of job service is in any way a party. Nevertheless, material misrepresentation of job order information supplied by the employer constitutes a violation of these regulations. Upon discovery

ITEM 1. Amend subrule 3.41(1) to read as follows:

3.41(1) The computation date for the succeeding year's contribution rate shall be July 1. The rate computation shall include the wages reported for the quarter ending June 30 immediately preceding the computation date and contributions paid by July 31 ~~September 30~~ immediately following the computation date. ~~The statutory period for timely contributions payments is within thirty days after the end of the quarter. Therefore, contributions will be used for computation purposes if paid on or before July 31.~~

This subrule is intended to implement Iowa Code sections 96.7(3)"b" and 96.19(21).

ITEM 2. Amend subrule 3.43(10), paragraphs "a", "b" and "e" to read as follows:

a. If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual is not entitled to receive them the benefits the department shall have the right to recover the full amount of the overpayment, even though the individual was not at fault during the period of the claim. ~~The department, in its discretion, may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment. The department shall mail the overpayment decision to the claimant's last known address. Once the overpayment amount has been established, an overpayment shall be set up unless the claimant pays to the department a sum equal to the overpayment.~~

b. As soon as the amount of the overpayment ~~has been established~~ becomes final the department shall mail a first statement of overpayment to the claimant's last known address. This statement will request full repayment in the form of a negotiable check, money order, or bank draft payable to the Iowa Department of Job Service. ~~The total repayment shall be made within thirty days from the date of the first statement.~~

e. After all overpayment notices have been issued and all other recourse to collect have been exhausted and the department finds recovery of the overpayment is not possible the amount shall be deducted from any future benefits to which the claimant may be entitled. If the department receives a cash repayment to liquidate all or part of an indebtedness the department shall issue a receipt and mail it to the claimant's last known address. If the department receives a repayment that is not identified by a social security number, name or other means of identification, the money shall be retained until such time as a positive identification can be made and proper credit given to the claimant.

This rule is intended to implement Iowa Code section 96.3(7).

[Filed 7/30/82, effective 9/22/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

EMPLOYMENT SECURITY[370] (cont'd)

of a violation of these regulations by the Employment and Training Administration of the United States Department of Labor or the Iowa department of job service, the Iowa department of job service shall notify the employer in writing that it intends to discontinue services to the employer and the reason for doing so.

This rule is intended to implement The Code of Federal Regulations, Part IX, Chapter 20, Sections 651.1, 653.5, and 658.502, dated January 23, 1981.

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ARC 3150

EMPLOYMENT SECURITY[370]

(JOB SERVICE)

Pursuant to Iowa Code Sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby adopts amendments to Chapter 10, "Forms", Iowa Administrative Code.

These rules are identical to that published as Notice of Intended Action in IAB Number 25, dated June 9, 1982, as ARC 2967.

The purpose of this rule change is to add new and delete outdated forms used by Job Service.

These rules were adopted July 28, 1982 and will become effective September 22, 1982.

These rules are intended to implement Iowa Code section 96.11.

ITEM 1. Amend rule 370—10.3(96), Form No. IESC 66 to read as follows:

IESC 66 Notice of contribution rate. This notice is mailed ~~shortly~~ after the ~~first middle~~ of the ~~year~~ *October* to the employer to inform such employer of its rate for the calendar year. This notice includes payroll and experience data that provides, in part, the basis for the rate.

ITEM 2. Amend rule 370—10.4(96) by deleting Form No. IESC 141 in its entirety.

ITEM 3. Amend rule 370—10.4(96), Form No. IESC 175 SIR, Part 3, to read as follows:

Part 3 Notice of job insurance fact-finding interview. This is a notice to ~~either or both~~ *informs* the claimant and the employer ~~informing them~~ of the *time, place and date* of the fact-finding interview, issues and nature of the hearing.

ITEM 4. Amend the description of rule 370—10.4(96), Form No. IESC 200 to read as follows:

IESC 200 ~~Information for workers on job insurance. This is an informative publication presented to claimant on information requests and at claims filing with information about eligibility, filing, monetary, disqualifications, definitions, appeals and interstate claims. Job insurance facts for workers — This is a publication for intra- and interstate claimants containing information about a job insurance claim i.e., filing, eligibility, weekly benefit amount, disqualifications, appeals, and instructions for completing the intrastate 202 M form.~~

ITEM 5. Amend rule 370—10.4(96) by deleting in its entirety Form No. IESC 206.

ITEM 6. Amend rule 370—10.4(96), Form No. IESC 250 M to read as follows:

IESC 250 M Mail claim identification card — This card is issued to the claimant at initial claims filing. The claimant should submit this card each week when the weekly claim request is submitted. This card should also be presented at additional claim filing. *It also contains spaces to record the claimant's work search contacts.*

ITEM 7. Amend rule 370—10.4(96) by deleting in its entirety Form No. IESC 422.

ITEM 8. Amend rule 370—10.6(96) by adding new Form No. IESC LD-5-1 immediately following Form No. IESC LD-5 to read as follows:

IESC LD-5-1 Subpoena duces tecum. Form used by the legal department to command documents for job insurance appeal hearings.

ITEM 9. Amend rule 370—10.6(96) by adding new Form No. IESC 1709 immediately following Form No. IESC 1613 to read as follows:

IESC 1709 Telephone hearing notice. This form is completed by the appeals section in the administrative office on the receipt of a letter or written notice of appeal when the employer, claimant, or interested party appeals the decision of a claims representative. A telephone hearing is scheduled when it is in the best interest of all parties. An in-person hearing may be scheduled in lieu of a telephone hearing if parties prefer. Date, time, sections of law involved, matters asserted and procedures for the hearing are stated on the form.

ITEM 10. Amend rule 370—10.7(11) by deleting in its entirety Form No. MA 6-72.

These rules are intended to implement Iowa Code section 96.11.

[Filed 7/30/82, effective 9/22/82]
[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3124**HEALTH DEPARTMENT[470]****BOARD OF PODIATRY EXAMINERS**

Pursuant to the authority of Iowa Code Sections 147.76 and 147.80, the rules of the Board of Podiatry Examiners appearing in the IAC relating to licensure (Chapter 139) are hereby amended.

The rules establish procedure for the issuance of a temporary certificate for an academic staff member of a podiatry school and provide for initial and renewal fees.

Notice of Intended Action was published in the IAB June 23, 1982 as ARC 2985.

Subrule 139.4(3) was added to the proposed rules as published under notice.

The rules are intended to implement Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2348, Section 1.

The rules shall become effective September 22, 1982.

ITEM 1. Subrule 139.2(5) is amended to read as follows:

139.2(5) No temporary certificate or special permits to practice podiatry shall be issued: *except the board may issue a temporary certificate to an academic staff member of a podiatry school.* The filing of application does not grant an applicant any privilege to practice podiatry in any manner whatsoever in the state of Iowa.

ITEM 2. Rule 470—139.3(147) is amended by adding the following new subrule:

139.3(6) Fee for a temporary certificate for an academic staff member of a podiatry school is one hundred dollars. The annual renewal fee for a temporary certificate for an academic staff member is thirty-five dollars.

ITEM 3. Chapter 139 is amended by adding the following new rule:

470—139.4(147, 149) Temporary certificate for academic staff member of podiatry school.

139.4(1) A temporary academic certificate may be issued for one year and at the discretion of the board may be annually renewed not to exceed two additional years. A temporary academic certificate is valid only for duties performed for the podiatry school.

139.4(2) Each applicant shall:

a. Submit a completed application form accompanied by a fee of one hundred dollars;

b. Present with the application an official statement from the chief executive officer of a school of podiatry located in Iowa that the applicant is on the academic staff of the school;

c. Present with the application an official copy of a diploma issued by a school of podiatry approved by the board and an official transcript;

d. Present with the application an official copy of license and current renewal of a license to practice podiatry issued by another state;

e. Present with the application an official statement issued by a licensing board or department that no disciplinary action is pending against the applicant;

f. Successfully complete a board administered oral examination unless the examination is waived by the board.

139.4(3) The chairman of the board of examiners may administer the oral examination and may authorize the issuance of a temporary certificate following conferral with and approval by a majority of the board members.

Conferral and approval may be given by mail or telephone as well as by formal meeting of the board.

[Filed 7/29/82, effective 9/22/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3127**INSURANCE DEPARTMENT [510]**

Pursuant to the authority of Iowa Code Sections 505.8 and 514B.23, the Iowa Department of Insurance hereby amends 510—Chapter 40, Health Maintenance Organizations, Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 23, 1982 as ARC 2996.

Consideration was given to written data, views and arguments thereto which were received by the commissioner of insurance on or before July 23, 1982. A public hearing was held on July 15, 1982 and oral testimony was received.

The comments received were all in support of removing the requirements of direct enrollee election of enrollee representatives to the governing body. All those making comment; acknowledged the benefits of enrollee representatives on the governing body. Those commenting, however, believed the direct election requirement to be: (1) Unnecessary —as an HMO, as any business, would strive to avoid policies which would create dissatisfied enrollees; (2) unduly burdensome and expensive —considerable administrative costs for balloting, along with cumbersome location problems; and (3) ineffective in obtaining qualified and interested participants —as participation at such elections is low and could allow special interest groups to manipulate the proceeding.

In response to these comments, changes were made from the published notice. These changes are to delete the requirement of direct enrollee election of their representatives to an HMO's governing body. The rules will continue to require an enrollee nomination procedure, unless waived by the commissioner for a period of up to three years from the HMO's commencement. The rules will also enable an HMO to notify enrollees of their opportunity to nominate their representatives through use of the regular enrollee newsletter.

These rules are intended to implement Iowa Code chapter 514B.

These rules shall become effective September 30, 1982.

The following amendments are adopted:

Amend rule 510—40.4(514B) to read as follows:

510—40.4(514B) Governing body. An HMO shall have a basic written organizational document setting forth its scheme of organization and establishing a governing

INSURANCE DEPARTMENT[510] (cont'd)

body appropriate to its form of organization. The governing body shall be responsible for matters of policy and operation, and shall be separate and independent from any other governing body.

The HMO shall develop bylaws which describe the scope of the health care services the HMO renders to enrollees either directly by the medical staff or the dental staff, if dental care is provided, or through arrangements with others outside of the organization. Initial bylaws or revisions thereto shall be submitted to the commissioner of public health and the commissioner of insurance for review and approval.

The bylaws or similar document shall provide for "reasonable representation" on the governing body by enrollees. "Reasonable representation" as used in section 514B.7 shall require not less than thirty percent of the governing board members be enrollees who are not providers or are not associated with a provider. ~~Such enrollee representatives shall be nominated by the adult enrollees who are not providers or are not associated with providers, and the enrollee representatives shall be elected from the persons so nominated.~~ *Enrollees shall have the opportunity to nominate said enrollee representatives.*

The HMO may provide upon its initial formation that all representatives on the governing board shall be selected by the organizers of the HMO. ~~It is contemplated that such~~ *Such* members shall serve until the first annual meeting or election. If there are no enrollee representatives elected by enrollees on the initial governing board, ~~then a procedure shall be established by the HMO allowing election of enrollee representatives to the governing board within six months after the HMO commences delivery of service to its enrollees.~~ *they shall be elected at the first annual meeting or election.*

The nomination ~~and election~~ procedures for enrollee representatives should provide for the following to assure an adequate opportunity for participation by enrollees:

40.4(1) An opportunity for adult enrollees to nominate candidates for the governing body.

40.4(2) Notice to all adult enrollees of the nomination and election procedures.

~~**40.4(3)** An opportunity for adult enrollees to vote for enrollee representatives by a balloting procedure approved by the commissioner.~~

The HMO shall be deemed to have complied with these requirements if it provides notice in its regular newsletter to enrollees of the opportunity to and the procedures for nomination of enrollee representatives.

Nomination procedures may be waived by the commissioner for a period of up to three years from the HMO's commencement of delivery of services to enrollees.

This rule is intended to implement Iowa Code section 514B.7.

[Filed 7/30/82, effective 9/30/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3141**IOWA FAMILY FARM
DEVELOPMENT AUTHORITY[523]**

Pursuant to the authority of Iowa Code Section 175.6(14), the Iowa Family Farm Development Authority emergency adopts rules creating a new Chapter 4 "Soil Conservation Loan Program." This chapter was also submitted under Notice of Intended Action—Hearing, ARC 3142*, published in the Iowa Administrative Bulletin on August 18, 1982.

The chapter provides application procedures for soil conservation loans. Also provided in the chapter are qualification requirements for applicants and participating lenders, definitions, procedures for issuing bonds and delineations of the authority and control of the Iowa Family Farm Development Authority to oversee and implement the program.

In compliance with Iowa Code Section 17A.4(2), the Iowa Family Farm Development Authority finds that public notice and participation is impracticable. Due to the cyclical nature of agriculture, participants in the soil conservation loan program will be implementing conservation practices in the fall after harvest and in the spring before planting. For the benefit of the people of Iowa and to help eradicate the soil erosion problem, the Iowa Family Farm Development Authority has determined that the Soil Conservation Loan Program rules should be emergency adopted to allow participants in the program to make decisions and obtain loans at the earliest possible date.

The Family Farm Development Authority adopted these rules at a regular meeting on July 21, 1982 and will become effective September 22, 1982.

These rules implement Acts of the Sixty-ninth General Assembly, 1982 Regular Session, House File 2363.

**CHAPTER 4
SOIL CONSERVATION LOAN PROGRAM
Part I**

523—4.1(69GA, HF2363) Soil conservation loan program description. This program is intended to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land by making financing available to credit worthy owners and operators of agricultural land within the state. This will be accomplished by obtaining loan funds from the proceeds of a tax-exempt bond issued by the authority and purchased by the participating lender. The authority will issue a tax-exempt bond in the amount of the loan and the participating lender will purchase that bond, which is used to fund the loan assigned to the lender. The bond which is issued by the authority and purchased by the lender is a non-recourse obligation. The only security for the lender is the underlying security on the assigned loan(s). Due to the anticipated small size of the individual loans, partici-

*See ARC 3142 herein.

IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523] (cont'd)

pating lenders may aggregate individual loans into one bond issue in order to make the program economically feasible.

Part II

523—4.2(69GA, HF2363) Definitions.

4.2(1) "Landowner or operator" means any person, firm, or corporation or any federal agency, the state of Iowa or any of its political subdivisions, who shall hold title to or operate agricultural land within the boundaries of the state.

4.2(2) "Landowner or operator application" means a completed instrument on a form approved by the authority. Each application must include the following: Applicant name, address, county in which agricultural land is located, description of anticipated use of loan proceeds, amount of loan, amount of state or federal cost share fund (if any) that will be received if application is for a permanent soil conservation practice, statement by the soil conservation district that the permanent soil and water conservation project is in accordance with a conservation plan developed in accordance with standards and specifications adopted by the district, or a statement by the district that the conservation farm equipment being contemplated for purchase meets the requirements of subrule 4.2(7).

4.2(3) "Participating lender application" means a completed instrument on a form approved by the authority. Each application must include the following: Applicant name, address, amount of bond requested, a list of loan requests submitted to substantiate bond request, proposed loan terms, including interest rate, type of interest on the loan, and length of loan.

4.2(4) "Agricultural land" means land suitable for use in farming and which is or will be operated as a farm.

4.2(5) "Farm" means a farming enterprise which is recognized in the community as a farm rather than a rural residence.

4.2(6) "Permanent soil and water conservation practice" means planting of perennial grasses, legumes, shrubs or trees, the establishment of grassed waterways, and the construction of terraces, or other permanent soil and water conservation practices approved by the state soil conservation committee.

4.2(7) "Conservation farm equipment" means the specialized planters used for reduced tillage or no-till planting of row crops. Such planters shall provide for a planting procedure in which seed bed preparation and planting are completed in one operation with tillage in the row limited to one-third of the total area. The area between the rows will be left untilled until planting has been completed.

4.2(8) "Act" means Iowa Code chapter 175, as amended by Acts of the Sixty-ninth General Assembly, 1982 Regular Session, House File 2363.

Part III

523—4.3(69GA, HF2363) Application procedures. Soil conservation loans can be made to an owner or operator of a farm located within the state for which a conservation plan has been developed by the USDA Soil Conservation Service and adopted by the soil conservation district and the project for which the loan is to be made has been approved by the district, and meets applicable requirements of the U.S. Internal Revenue Service (IRS) for tax-exempt financing. The landowner or operator may apply for an authority loan with any participating lender.

The participating lender may aggregate loan requests into one loan application and submit it to the authority. Any loan approved will be assigned by the authority to that participating lender. Applicant loan eligibility will be determined on the basis of the Act and rules of the authority. If the project for which a loan is sought meets loan eligibility requirements, the decision on whether to enter into a loan agreement is between the landowner or operator and the participating lender. They must agree on terms of the loan including interest rates, length of loan, loan amount, down payment, service fees, origination charges, and repayment schedule, which may not be any more onerous than that charged to similar customers for similar loans, but taking into account the tax-exempt nature of the loan. Following completion of the application by the landowner or operator, it is submitted to a participating lender who will submit an application for those loan requests approved by the lender to the authority for review and approval. The authority's review will include, but not be limited to whether (1) the loan proceeds will be used for a qualified purpose(s) under the Act and rules of the authority and the Internal Revenue Code and IRS regulations relating to industrial development revenue bonds as determined by bond counsel; and (2) the terms of the loan comply with these rules. In granting loan requests, the authority will give preference to those landowners or operators with the lower net worth. Following approval and issuance of the bond, the authority will enter into a loan agreement with the participating lender and then assign the loan without recourse to that lender. The loan shall not be remitted to the landowner or operator until evidence is provided that payment of the permanent soil and water conservation practice is arranged for and the soil conservation district certifies that the practice is completed and approved. The authority may charge reasonable and necessary fees needed to defray its costs for processing the loan and bond.

523—4.4(69GA, HF2363) Issuance of bond. Following approval of the loan, the authority will issue a bond, to be purchased by the participating lender, in the amount and fitting the terms of the loan to the landowner(s) or operator(s). The principal and interest on the bond is a limited obligation payable solely out of the revenues derived from the loan to the landowner(s) or operator(s) and the underlying collateral or other security furnished by or on behalf of the landowner(s) or operator(s). The participating lender shall have no other recourse against the authority. The principal and interest on the bond does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

523—4.5(69GA, HF2363) Participating lenders. Any bank, bank holding company, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any state or federal governmental agency or instrumentality, or any other financial institution or entity authorized to make mortgage loans or secured loans in this state may become a participating lender. A financial institution may become a participating lender at any time by signing an agreement with the authority to become a participating lender.

523—4.6(69GA, HF2363) Minimum loan. There will be no minimum amount for a loan under this program.

523—4.7(69GA, HF2363) Maximum loan. The maximum amount of loans that an owner or operator may receive in one year pursuant to this program shall not exceed twenty-five thousand dollars (\$25,000.00).

IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523] (cont'd)

523—4.8(69GA, HF2363) Priority of applications. Applications shall be processed by the authority on a first-come, first-served basis, based upon the receipt of all completed documents by the authority.

523—4.9(69GA, HF2363) Procedures following bond issuance. No bond proceeds may be used for a nonqualified purpose. Following the disbursement of the bond proceeds, the participating lender shall certify to the authority that the proceeds were used by a qualified landowner(s) or operator(s).

523—4.10(69GA, HF2363) Assignment of loans by participating lenders. A participating lender may assign a loan in whole or in part to any person, as defined in Iowa Code section 4.1(13). Servicing of the loan may also be assigned, but must at all times be with a participating lender as defined in rule 523—4.5(69GA, HF2363). The authority must be notified in writing prior to assignment of servicing of the loan.

523—4.11(69GA, HF2363) Right to audit.

The authority shall have at any time the right to audit the records of the participating lender and the landowner(s) or operator(s) relating to this loan and bond to ensure that bond proceeds were used for a qualified purpose by a qualified user.

These rules are intended to implement Acts of the Sixty-ninth General Assembly, 1982 Regular Session, H.F. 2363.

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[Published 8/18/82]

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ARC 3114

LABOR, BUREAU OF[530]

Pursuant to the authority of Iowa Code Sections 104.3(1), 104.5 and 104.6, the Commissioner of Labor hereby adopts and amends rules relating to the general administration of the elevator division, 530—Chapter 71 IAC.

Notice of Intended Action was published in the May 26, 1982, IAB, as ARC 2902. A public hearing was held on June 24, 1982.

These rules are intended to make minor technical corrections and changes; remove unnecessary definitions; establish a structure for the scheduling of inspections; change the manner by which the safety tests of facilities shall be accomplished; amend the procedures for reporting accidents; require the registration of all facilities and establish procedures for the licensing of special inspectors.

Minor grammatical changes were made in subrules 71.2(2), 71.2(7), the caption to 71.5(104) and 71.5(3)"a". Rule 71.3(104) was amended to increase the damage limit for the filing of an accident report from \$1,000 to \$2,000. Subrule 71.2(1) was changed to indicate a different format for determining inspections to be conducted.

These rules will become effective September 30, 1982.

These rules and amendments are intended to implement Iowa Code sections 104.3(1), 104.5 and 104.6, and Acts of the Sixty-ninth General Assembly Senate File 2210

ITEM 1. Amend rule 530—71.1(104) to read as follows:

530—71.1(104) Definitions. As used in *The definitions contained in this rule shall apply to chapters 73 and 74, except as otherwise expressly provided as and used in these chapters to the extent that they do not conflict with the definitions contained in chapter 104 of the Code.*

ITEM 2. Strike the following subrules and renumber the remaining subrules accordingly; 71.1(1), 71.1(13), 71.1(16), 71.1(18), 71.1(19), 71.1(21), 71.1(22), 71.1(29), 71.1(32), 71.1(35), 71.1(36), 71.1(38), 71.1(43), 71.1(44), 71.1(45), 71.1(47), 71.1(49), 71.1(52), 71.1(53), and 71.1(55).

ITEM 3. Amend the former subrule 71.1(2) to read as follows:

71.1(2) Approved. Approved by the enforcing authority division.

ITEM 4. Strike the former subrule 71.1(30) and insert in lieu thereof the following in the correct alphabetical order:

71.1(30) Installation. A complete elevator, dumbwaiter, escalator or moving walk including its hoistway, hoistway enclosures and related construction, and all machinery and equipment necessary for its operation.

ITEM 5. Amend the former subrule 71.1(31) to read as follows:

71.1(31) Landing, elevator. That portion of a floor, balcony, or platform used to receive and discharge passengers or freight.

ITEM 6. Amend the former subrule 71.1(34) to read as follows:

71.1(34) Machine, driving. The power unit which applies the energy necessary to raise and lower an elevator or dumbwaiter car or to drive an escalator; ~~a private residence inclined lift~~ or a moving walk.

ITEM 7. Amend the former subrule 71.1(41) to read as follows:

71.1(41) Rated load. The load which the elevator, dumbwaiter, or escalator ~~or private residence inclined lift~~ is designed and installed to lift at the rated speed.

ITEM 8. Strike the former subrule 71.1(42) and insert in lieu thereof the following in the correct alphabetical order:

71.1(42) Rated speed. The speed at which the elevator or dumbwaiter is designed to operate.

ITEM 9. Amend the former subrule 71.1(51) to read as follows:

71.1(51) Travel (rise). The vertical distance between the bottom terminal landing and the top terminal landing of an elevator, dumbwaiter, or escalator; ~~or a private residence inclined lift.~~

LABOR, BUREAU OF[530] (cont'd)

ITEM 10. Strike rule 530—71.2(104)IAC in its entirety and insert in lieu thereof the following:

530—71.2(104) Inspection. The rules for inspection shall apply to all facilities.

71.2(1) Inspections may be made when the commissioner reasonably believes that a facility is not in compliance with the provisions of the rules. Accidents or complaints may result in inspections.

Inspections on existing facilities and all facilities installed hereafter will be conducted annually as resources permit within the following parameters:

a. All new registered facilities will be inspected before being placed in service.

b. At least sixty percent of registered passenger elevators which are available and intended for public use and which have three or more landings.

c. At least forty percent of registered freight elevators which have three or more landings.

d. At least twenty percent of other registered facilities.

Complete safety tests shall be made on all inspected existing facilities within the first year following initial inspection. Complete safety tests shall be performed on new installation before they are placed in service. The owner is responsible for having these tests performed.

71.2(2) Safety tests shall be performed by a qualified person who is employed by a recognized elevator company or persons certified by the commissioner for the purpose of performing safety tests on their own facilities. All tests shall be in accordance with ANSI A17.1, 1981, part X, except for rule 1001.1a, 1001.1c and 1001.6a. Forms shall be provided by the commissioner. The firm or person conducting the tests shall:

a. Submit to the commissioner on forms provided a statement certifying the results of conducted tests.

b. Attach to the safety-releasing carrier a tag marked to show the date of the test and the name of the firm or person conducting the test.

71.2(3) When installing a new facility or performing major alterations, the owner shall notify the commissioner in writing not less than two weeks before the safety tests are to be performed on the facility. A bureau of labor elevator inspector shall be present to check and witness all safety tests. The acceptance inspection will be made at this time.

71.2(4) If the facility does not comply with the applicable rules upon completion of the inspection, the elevator inspector shall set the time for corrections to be made. The owner may petition the commissioner for additional time to make the necessary corrections.

71.2(5) After all major alterations, the facility shall be inspected. If alterations are such as to change the classification of the facility, an application for a new operating permit shall be submitted.

71.2(6) All dormant facilities shall be inspected before being placed in service. The inspection shall conform to ANSI A17.1, 1981, rule 1001.8.

71.2(7) The commissioner shall assign identification numbers to all facilities which shall be on a metal tag permanently attached to the controller in the machine room.

71.2(8) No person shall delay or impede an inspector from making inspections. Inspections shall be made during regular working hours or at a time mutually acceptable to the owner and the elevator inspection supervisor.

ITEM 11. Amend rule 530—71.3(104)IAC to read as follows:

530—71.3(104) Accident reports. The owner or his duly authorized agent shall immediately notify the ~~bureau of labor, elevator safety division~~ commissioner of each and every personal *injury* accident requiring the service of a physician or disability exceeding one day or damage exceeding ~~five hundred two thousand~~ dollars to the elevator, dumbwaiter, escalator or moving walk or its hoistway enclosure or doors facility. Each accident that is required to be reported shall be investigated without delay. A complete report of each accident shall be placed on file at the bureau of labor. Such report shall be made by a bureau of labor elevator inspector and give in detail all material facts and information available and the cause or causes, so far as they can be ascertained. When an accident involves the failure or destruction of any part of the construction or the operating mechanism of a device, the use of the device is forbidden until it has been made safe and until it has been reinspected and any repairs or alterations have been approved by the commissioner. The removal of any part of the damaged construction or operating mechanism from the premises is forbidden until permission to do so has been granted by the commissioner.

ITEM 12. Adopt a new rule 530—71.4(104) to read as follows:

530—71.4(104) Registration of facilities. The owner or authorized agent of each operable facility not previously registered shall register the facility on or before December 31, 1982. An application to install a new facility shall constitute registration for all facilities installed on or after January 1, 1983. All registrations shall be submitted to the commissioner on forms available from the bureau of labor.

ITEM 13. Adopt a new rule 530—71.5(104) to read as follows:

530—71.5(104) Special inspector qualifications and limitations. Before a special inspector is licensed by the commissioner, the applicant shall submit evidence to satisfy the requirements of this rule.

71.5(1) Education and experience.

a. Each applicant shall certify graduation from high school or the G.E.D. equivalent.

b. Each applicant shall certify at least three years of full-time work experience in the construction, installation, repair or inspection of elevators (passenger or freight), escalators, moving walks or manlifts. The application shall be augmented with a listing of the last three years of qualifying work experience.

71.5(2) Examination. Each applicant shall satisfactorily pass any one of the following examinations:

a. National Association of Professional Elevator Inspectors.

b. National Association of Elevator Authorities.

c. International Elevator Board, Inc.

Proof of passage will be satisfied by submission of the examination card by any one of the above organizations. Additionally, each applicant shall satisfactorily pass a bureau of labor examination on Iowa procedures and policies.

71.5(3) Insurance.

a. Each applicant shall submit proof of insurance coverage insuring the applicant against liability for injury or

LABOR, BUREAU OF[530] (cont'd)

death for any acts or omissions on the part of the applicant. The insurance policy shall be in an amount of not less than five hundred thousand dollars for bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in an amount of not less than one million dollars for bodily injury to or death of two or more persons in any one accident, and in an amount of not less than fifty thousand dollars for damage to or destruction of property in any one accident.

b. Insurance coverage of an employer for whom the special inspector is employed shall be considered to comply with 71.4(3)"a" if the coverage provides equivalent coverage for each special inspector.

71.5(4) Prohibited inspections. A special inspector shall not conduct an inspection of any facility to satisfy the requirements of Iowa Code section 104.6, if the facility is:

a. Owned or leased by the employer of the inspector, or

b. Under contract for installation, alteration or maintenance by the employer of the special inspector.

71.5(5) Permitted inspections. While a special inspector may conduct various types of inspections in his/her employment, the commissioner will only accept special inspector reports for initial inspections, annual inspections and recheck inspections. The commissioner will not accept special inspector reports for acceptance inspections or accident investigation reports.

71.5(6) Reports. All report forms to be used by special inspectors shall be on forms approved by the commissioner. All reports shall be submitted to the commissioner within twenty days from the date of the special inspection.

Items 1—9 are intended to implement Iowa Code section 104.3(1).

Item 10 is intended to implement Iowa Code section 104.6.

Item 11 is intended to implement Iowa Code section 104.3(1)"g".

Item 12 is intended to implement Iowa Code section 104.5.

Item 13 is intended to implement Iowa Code sections 104.3(1)"i" and 104.6.

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[Published 8/18/82]

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ARC 3115

LABOR, BUREAU OF[530]

Pursuant to the authority of Iowa Code Sections 104.3(1) and 104.3(2), the Commissioner of Labor hereby adopts and amends rules relating to the new installations, 530—Chapter 72 IAC.

These rules are intended to establish standards for the design, construction, installation, operation, inspection,

testing, maintenance, alteration and repair of new facilities. The rules forbid the installation of special purpose hand powered elevators after January 1, 1983.

The rules also provide for the installation of elevators which are restricted to use by the handicapped individuals with a single attendant. These restricted use elevators may not be used by the general public and shall be key operated to ensure this exclusivity.

Notice of Intended Action was published in the May 26, 1982, IAB as ARC 2903. A public hearing was held on June 24, 1982.

The rules are substantially identical to the Notice of Intended Action. Grammatical changes have been made.

These rules will become effective September 30, 1982.

These rules and amendments are intended to implement Iowa Code sections 104.3(1) and 104.3(2).

ITEM 1. Amend 530—72.1(104) to read as follows:

530—72.1(104) Purpose and scope. This chapter contains rules of safety standards covering the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of facilities installed on or after January 1, 1975. As used in this chapter ANSI A17.1 and ANSI C1 shall mean ANSI A17.1 (1971) and ANSI C1—1975 for all facilities installed from January 1, 1975, through December 31, 1982, and ANSI A17.1 (1981) and ANSI C1—1981 for all facilities installed on or after January 1, 1983. Any installation which is in compliance with the latest supplements to ANSI A17.1 shall be considered to be in compliance with this chapter. As used in this rule, the word "installed" refers to the date of written contractual agreement to install the facility.

ITEM 2. Amend 530—72.2(104) to read as follows:

530—72.2(104) Definitions. The definitions and interpretations contained in section 3 of the introduction of the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, and supplements thereto shall be applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 104.

ITEM 3. Amend 530—72.3(104) to read as follows:

530—72.3(104) Hoistways, hoistway enclosures and related construction for electric elevators. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part I, Sections 100-112, are adopted by reference. When ANSI C1 1971 (NFPA 70 1971) is used in this section it shall be changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

ITEM 4. Amend 530—72.4(104) to read as follows:

530—72.4(104) Machinery and equipment for electric elevators. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part II, sections 200-212, and supplements thereto, are adopted by reference with the addition of the following: All elevators shall be usable by the physically handicapped. All elevators shall have control buttons with identifying features for the benefit of the blind and shall allow for wheelchair traffic. When ANSIC1 1971 (NFPA 70 1971) is used in Part II it shall be changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

LABOR, BUREAU OF[530] (cont'd)

ITEM 5. Amend 530—72.5(104) to read as follows:

530—72.5(104) Hydraulic elevators. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part III, sections 300-307, and supplements thereto are adopted by reference with the exception of rule 300.3d. In lieu of rule 300.3d, the following is hereby adopted: The top ear clearance shall be not less than the sum of the top ear runby; and two feet above the top of the crosshead or any equipment permanently mounted on the crosshead or three feet above the top of the ear enclosure, whichever distance is greater. On hydraulic elevator installations, a scavenger pump or other acceptable means shall be provided, designed to carry excess oil from the cylinder packing gland back to the oil storage tank of the elevator. When ANSI C1 1971 (NFPA 70 1971) is used in part III it shall be changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

ITEM 6. Amend 530—72.6(104) to read as follows:

530—72.6(104) Power sidewalk elevators. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part IV, sections 400-402 and supplements thereto are adopted by reference. When ANSI C1 1971 (NFPA 70 1971) is used in part IV it shall be changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

ITEM 7. Amend 530—72.7(104) to read as follow:

530—72.7(104) Hand elevators. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part VI, sections 600-610 and supplements thereto are adopted by reference. When ANSI C1 1971 (NFPA 70 1971) is used in part VI it shall be changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

ITEM 8. Amend 530—72.8(104) to read as follows:

530—72.8(104) Hand and power dumbwaiters. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part VII, sections 700-709 and supplements thereto are adopted by reference. When ANSI C1 1971 (NFPA 70 1971) is used in part VII it shall be changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

ITEM 9. Amend 530—72.9(104) to read as follows:

530—72.9(104) Escalators. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part VIII, sections 800-806 and supplements thereto are adopted by reference. When ANSI C1 1971 (NFPA 70 1971) is used in part VIII it shall be changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

ITEM 10. Amend 530—72.10(104) to read as follows:

530—72.10(104) Moving walks. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part IX, sections 900-903 and supplements thereto are adopted by reference. When ANSI C1 1971 (NFPA 70 1971) is used in part IX it shall be

changed to the ANSI C1 1975 (NFPA 70 1975) required by rule 530—72.1(104).

ITEM 11. Amend 530—72.11(104) to read as follows:

530—72.11(104) Acceptance and periodic tests and inspections of elevators, dumbwaiters, escalators and moving walks. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part X, sections 1000-1002 and supplements thereto are adopted by reference.

ITEM 12. Amend 530—72.12(104) to read as follows:

530—72.12(104) Engineering and type tests. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part XI, sections 1100-1103 and supplements thereto are adopted by reference.

ITEM 13. Amend 530—72.13(104) to read as follows:

530—72.13(104) Alterations, repairs and replacements. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part XII, sections 1200-1202 and supplements thereto are adopted by reference.

ITEM 14. Amend 530—72.14(104) to read as follows:

530—72.14(104) Design data and formulas. The provisions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1971, part XIII, sections 1300-1308 and supplements thereto are adopted by reference.

ITEM 15. Strike rule 530—72.15(104) and insert the following rule in lieu thereof:

530—72.15(104) Power operated special purpose elevators. The provisions contained in American National Standard Safety Code of Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1 (1981), part XV, sections 1500-1502, are adopted by reference for all power operated special purpose elevators installed after January 1, 1983.

ITEM 16. Strike rule 530—72.16(104) and insert the following rule in lieu thereof:

530—72.16(104) Hand powered special purpose elevators. Hand powered special purpose elevators shall not be installed after January 1, 1983.

ITEM 17. Insert a new rule 530—72.17(104).

530—72.17(104) Handicapped applications. All passenger elevators installed between January 1, 1975, and December 31, 1982, which are available and intended for public use shall be usable by the physically handicapped. All passenger elevators shall have control buttons with identifying features for the benefit of the blind and shall allow for wheelchair traffic. All passenger elevators installed on or after January 1, 1983, which are accessible to the general public shall comply with ANSI A117.1—1980, section 4.10.1-4.10.14.

ITEM 18. Insert a new rule 530—72.18(104).

530—72.18(104) Handicapped restricted use elevators. This rule permits the installation of elevators not meeting the requirements of rules 530—72.3(104) and 530—72.4(104) where the elevators are only used to transport a restricted number of handicapped persons.

LABOR, BUREAU OF[530] (cont'd)

These rules only apply to locations such as churches, schools, fraternal organizations and similar locations where other elevators do not exist. Operating permits will only be issued where the owner can indicate that the elevator would provide a benefit to handicapped individuals and where the failure to install the restricted use elevator would deprive a known group of handicapped individuals the use of the building. The provisions contained in American National Standards Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1, 1981, part V, are adopted by reference for all handicapped restricted use elevators installed after January 1, 1983. Additionally, the elevator installed under this rule shall comply with the following limitations:

1. The elevator shall only be used by a maximum of one handicapped person and one attendant at a time. Where a handicapped individual cannot operate the elevator in a manner which will ensure access to all operating controls and safety features, an attendant shall accompany the handicapped individual.

2. The elevator shall be key operated and shall not be capable of being called by buttons or switches but may be called by a key operator.

3. Keys to operate the elevator shall be in the control of the handicapped person, the attendant or in the control of persons in positions of responsibility at the location.

4. A list shall be maintained at the location indicating the persons holding keys for the operation of the elevator.

5. Each landing and the elevator car shall be posted to indicate that the use of the elevator is only for the use of handicapped persons.

6. The travel distance of the elevator shall not exceed fifty feet.

These rules are intended to implement Iowa Code section 104.3(1) and 104.3(2)

[Filed 7/28/82, effective 9/30/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3116

LABOR, BUREAU OF[530]

Pursuant to the authority of Iowa Code Sections 104.3(1) and 104.3(2), the Commissioner of Labor hereby adopts and amends rules relating to existing elevators, 530—Chapter 73 IAC.

This rule establishes the minimum safety devices and structural composition of all existing facilities installed on or before January 1, 1975. These rules also establish minimum standards for emergency devices within the facility, establishes minimum design features of control rooms to ensure safe and unhindered operation of facilities and makes minor cosmetic changes.

Notice of Intended Action was published in the May 26, 1982, IAB as ARC No. 2904. A public hearing was held on June 24, 1982.

Changes from the Notice of Intended Action are:

Item No. 3 — Reinsertion of the words "or gate".

Item No. 11 — Added to make rules consistent within themselves as recommended at the public hearing.

Item No. 21 — The rule relating to replacing ropes/cables was rewritten to provide more specificity.

These rules will become effective September 30, 1982.

These rules and amendments are intended to implement Iowa Code sections 104.3(1) and 104.3(2).

ITEM 1. Amend the title of chapter 73 from "EXISTING ELEVATORS" to "EXISTING FACILITIES".

ITEM 2. Amend rule 530—73.1(104) to read as follows:

530—73.1(104) Purpose and scope. *These rules This chapter establishes minimum safety standards for all existing elevators, dumbwaiters, escalators and moving walks (facilities not covered by 530—chapter 72). The following rules This chapter shall apply to all facilities unless specifically stated otherwise. Any facility which is in compliance with the latest supplements to ANSI A17.1 or 530—chapter 72 shall be considered to be in compliance with this chapter.*

ITEM 3. Strike subrule 73.2(5) and substitute the following in lieu thereof:

73.2(5) Manually operated biparting entrances of elevators which can be operated from the landings shall be provided with pull straps on the inside and outside of the upper panel where the lower edge of the upper panel is more than six feet six inches above the landing when the panel is in the fully opened position.

ITEM 4. Amend subrule 73.2(13) to read as follows:

73.2(13) ~~Where fire resistive hoistway enclosures and doors are not required, the hoistway~~ *Hoistways containing freight elevators shall be fully enclosed. Enclosures shall be unperforated to a height of six feet above each floor or landing and above the treads of adjacent stairways. Enclosures Unperforated enclosures shall be so supported and braced as to deflect not over one inch when subjected to a force of one hundred pounds applied horizontally to any point. Open work enclosure may be used above the six foot level and shall reject a ball two inches in diameter.*

ITEM 5. Strike subrule 73.2(15) and insert in lieu thereof the following:

73.2(15) Except where vertical opening biparting doors are provided, all elevators provided with automatic leveling, inching or teasing devices and where the landing sills project into the hoistway, shall be equipped with a bevel on the underside of the landing sill. Bevels shall be constructed of smooth concrete or not less than sixteen gauge metal securely fastened to the hoistway entrance. Bevels shall extend the full depth of the leveling zone plus three inches.

ITEM 6. Strike subrule 73.2(16) and insert the following in lieu thereof:

73.2(16) Every hoistway window opening seven stories or less on an outside wall above a thoroughfare and every such window three stories or less above a roof of the building or of an adjacent building shall be guarded to prevent entrance by fire or emergency rescue persons. Each such window shall be marked "hoistway" in a readily visible manner.

LABOR, BUREAU OF[530] (cont'd)

ITEM 7. Strike subrule 73.2(17).

ITEM 8. Amend subrule 73.3(9) to read as follows:

73.3(9) Each passenger elevator shall have a capacity plate prominently displayed in its enclosure. The capacity plate shall list its capacity in pounds and number of persons.

ITEM 9. Amend subrule 73.3(11) to read as follows:

73.3(11) All automatic passenger elevators shall be provided with an alarm bell capable of being activated from inside the car. ~~Bell shall be not less than six inches in diameter and shall be located within the building~~ and audible outside the hoistway. If the elevator is not equipped with a bell, a two-way conversation device ~~between each to the~~ elevator and a ready accessible point outside the hoistway may be acceptable.

ITEM 10. Amend subrule 73.4(4) to read as follows:

73.4(4) Each freight elevator car enclosure shall be provided with a top. The top may be of solid or open-work construction and shall be of metal. The open work shall reject a ball ~~one and one-half two~~ inches in diameter. Car tops shall be constructed to sustain a load of two hundred pounds applied at any point on the car top. The top shall not have hinged or folding panels other than the emergency exit cover.

ITEM 11. Amend subrule 73.7(1) to read as follows:

73.7(1) All electric elevators shall have ~~an a~~ labeled emergency stop switch. ~~Switch~~ The switch shall be located on or adjacent to the operating panel.

ITEM 12. Strike subrule 73.9(2) and substitute the following in lieu thereof:

73.9(2) The elevator machine and control equipment shall be located in a separate room or separated from other equipment by a substantial grill not less than six feet high. The grill shall be of a design that will reject a ball two inches in diameter. All rooms or enclosures shall have a self-closing and self-locking door.

ITEM 13. Strike subrule 73.9(10).

ITEM 14. Amend subrule 73.10(2) to read as follows:

73.10(2) Buffers under cars and counterweights shall be permanently fastened to the floor ~~on or their~~ the supporting beams.

ITEM 15. Amend subrule 73.10(3) to read as follows:

73.10(3) All elevators shall have counterweight guards. Guards shall be of unperforated metal of at least the strength of or braced to ~~equal the equivalent strength of~~ number fourteen gauge sheet steel. Guards shall extend from a point not more than twelve inches above the pit floor to a point not less than seven feet ~~nor more than eight feet~~ above the pit floor. ~~Where guards are not feasible, warning chains shall be installed on the bottom of the counterweights and shall extend no less than five feet below the counterweight. Chains shall be of a number ten U.S. gauge wire or of equal size.~~ Exception: When compensating chains or ropes are used, a counterweight guard is not required.

ITEM 16. Amend subrule 73.11(2) to read as follows:

73.11(2) Counterweight hanger rods, ~~or~~ tie rods or both shall firmly support and secure the counterweight sections in place.

ITEM 17. Strike subrules 73.12(5) and 73.12(6) and insert in lieu thereof the following:

73.12(5) All elevators with automatic leveling, inching or teasing devices shall have a platform guard or an apron. All other elevators shall have warning chains hung within two inches of the edge of the platform on the entrance sides. Chains shall be of number ten U.S. gauge wire or of equal size. Chains shall extend not less than five feet below the platform and shall not be spaced more than four inches apart.

ITEM 18. Strike subrules 73.12(7) and 73.12(8) and insert in lieu thereof the following subrule 73.12(6):

73.12(6) All car slings shall have guide shoes at the top and bottom of the sling. Shoes that are worn to a degree which affect the safe operation of the car shall be repaired or replaced.

ITEM 19. Strike subrules 73.13(9) and 73.13(10), insert a new subrule 73.13(9) as follows and renumber subrules 73.13(11) and 73.13(12) to be 73.13(10) and 73.13(11) respectively:

73.13(9) Suspension means of chains other than a roller chain type shall not be allowed. Any elevator suspended by a roller chain type shall not be used for the carrying of passengers. Exception: Handicapped restricted use elevators.

ITEM 20. Insert a new subrule 73.13(12) to read as follows:

73.13(12) Rope (cable) replacement. Hoisting, governor and tiller ropes shall be replaced when the American National Standards Practice for the Inspection of Elevators, Escalators and Moving Walks, Section A17.2—1979, Division 103, Item 103.4 dictates they shall be changed.

ITEM 21. Amend subrule 73.14(2) to read as follows:

73.14(2) Broken rope or slack rope safeties ~~located beneath the car, in the crosshead or in the stiles of the car,~~ may be allowed if the car speed is not in excess of fifty FPM.

ITEM 22. Amend subrule 73.14(3) to read as follows:

73.14(3) Elevators which are provided solely with broken rope or slack rope safeties shall not be used for passenger service. *Exception: Handicapped restricted use elevators.*

ITEM 23. Amend subrule 73.14(5) to read as follows:

73.14(5) All ~~slack cable~~ safeties shall be provided with an electrical switch which disconnects power to the elevator machine and brake when ~~the switch is applied by~~ setting of the safeties occurs. *Exception: When governor is provided with a speed switch.*

ITEM 24. Amend subrule 73.14(6) to read as follows:

73.14(6) All safeties ~~shall be~~ operated by a speed governor ~~shall be provided with a speed switch operated by the governor when used with type B or C car safeties on elevators having a rated speed exceeding one hundred fifty FPM. A switch shall be provided on the speed governor when used with a counterweight safety for any car speed.~~ *Exception: Slack cable safeties.*

ITEM 25. Strike subrule 73.14(8) and renumber subrule 73.14(9) to be 73.14(8).

ITEM 26. Amend subrule 73.15(1) to read as follows:

73.15(1) All guide rails and brackets whether of wood or steel shall be firmly and securely anchored or bolted in place. ~~At~~ *Where T rail is used all fish-plate bolts shall be*

LABOR, BUREAU OF[530] (cont'd)

tight. This shall comply with ANSI A17.1, 1971 1981, section 200.

ITEM 27. Amend subrule 73.17(10) to read as follows:

73.17(10) Cars shall have enclosures which shall be *not less than* six feet in height provided the stanchions and bow iron are of sufficient height. The enclosure shall be provided with electric contacts to prevent the car from running with doors or gates open.

ITEM 28. Amend subrule 73.18(6) to read as follows:

73.18(6) Hand-powered elevators shall not be converted or changed to electric powered unless the complete facility is brought into conformity with ~~ANSI A17.1, 1971, Part I and H, Electric Elevators 530—chapter 72.~~

ITEM 29. Insert a new rule 530—73.19(104).

530—73.19(104) Power operated special purpose elevators.

73.19(1) Elevators complying with the following requirements may be installed in any structure where the elevator is not accessible to the general public, is used exclusively for designated operating and maintenance employees only, and where transportation of one or two persons is required to attend machinery or equipment frequently.

73.19(2) The inside platform area of the car shall not exceed nine square feet. The rated speed shall not exceed one hundred FPM. The rated load shall not exceed six hundred fifty pounds.

73.19(3) Hoistways shall be enclosed to their full width, to a height of not less than seven feet with solid or perforated noncombustible material braced to deflect not more than one inch when subjected to a force of one hundred pounds applied horizontally at any point. Open work enclosures shall be at least number thirteen steel wire gauge or expanded metal at least number thirteen U.S. gauge and shall reject a ball two inches in diameter. Where counterweights pass, landing and stairway side shall be of solid construction.

73.19(4) Wiring shall comply with the requirements of the National Electrical Code, ANSI C1-1975 (NFPA 70-1975).

73.19(5) Counterweights shall comply with rule 530—73.11(104).

73.19(6) Hoistway doors shall comply with subrules 73.2(1), 73.2(7) and 73.2(11).

73.19(7) Cars shall be solidly constructed in accordance with subrules 73.12(1) and 73.12(2).

73.19(8) Car enclosure.

a. Except at the entrance, the car shall be enclosed on all sides and the top. The enclosure at the sides shall be solid or open work. All open work shall reject a ball one inch in diameter. The enclosure shall be constructed of sufficient strength that it will not deflect more than one inch at any one point.

b. There shall be an electric light to illuminate the car or hoistway with the switch placed on or near the operating panel.

c. There shall be no glass used in the elevator car except for the car light.

73.19(9) A car door shall be provided at each car entrance. Door or gate shall guard the complete entrance. The door or gate shall be at least seven feet high, of metal construction with solid or open construction to reject a ball one inch in diameter. A contact switch shall be provided to prevent the operation of the elevator with

doors or gates open. The door or gate shall be provided with interlocks.

73.19(10) Guiderails shall comply with rule 530—73.15(104).

73.19(11) The means and methods of suspension shall comply with subrules 73.13(1), 73.13(2), 73.13(3), 73.13(7), 73.13(8), 73.13(9), 73.13(10), 73.13(11), 73.13(12) and 73.13(13).

73.19(12) Electrical switches shall comply with subrules 73.7(2) and 73.7(9).

73.19(13) Brakes shall comply with rule 530—73.5(104).

73.19(14) Emergency signal or communication shall comply with subrule 73.3(11).

[Filed 7/28/82, effective 9/30/82]

[Published 8/18/82]

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ARC 3117

LABOR, BUREAU OF[530]

Pursuant to the authority of Iowa Code Sections 104.3(1), 104.5 and 104.6, the Commissioner of Labor hereby amends rules relating to escalators.

This rule amends the adjustment for step tread and skirt clearances on escalators and requires balustrade guarding.

Notice of Intended Action was published in the May 26, 1982, IAB as ARC No. 2905. A public hearing was held on June 24, 1982. No comments were received.

The adopted rules are identical to the Notice of Intended Action.

These rules will become effective September 30, 1982.

These rules and amendments are intended to implement Iowa Code section 104.3.

ITEM 1. Amend subrule 74.1(7) to read as follows:

74.1(7) The clearance on either side of the steps between the step tread and the adjacent skirt panel shall be not more than ~~one eighth~~ *three sixteenths* inch.

ITEM 2. Adopt a new subrule 74.1(12) to read as follows:

74.1(12) Where the clearance of the upper outside edge of the balustrade and a ceiling or scaffold is less than twelve inches or where the intersection of the outside balustrade and a ceiling or soffit is less than twenty-four inches from the centerline of the handrail, a solid guard shall be provided in the intersection of the angle of the outside balustrade and the ceiling or soffit. The vertical front edge of the guard shall project a minimum of fourteen inches horizontally from the apex of the angle. The escalator side of the vertical face of the guard shall be flush with the face of the wellway. The exposed edge of the guard shall be rounded.

LABOR, BUREAU OF[530] (cont'd)

These rules and amendments are intended to implement Iowa Code section 104.3.

[Filed 7/28/82, effective 9/30/82]
[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3118**LABOR, BUREAU OF[530]**

Pursuant to the authority of Iowa Code Sections 104.3(1), 104.5 and 104.6, the Commissioner of Labor hereby adopts and amends rules relating to permits required [Chapter 76].

The rules establish the process by which an owner of a facility may obtain an operating permit. The rule specifies the information which the owner of a facility must furnish the commissioner prior to receiving an operating permit. The rule states the manner in which the operating permit shall be displayed by the owner.

Notice of Intended Action was published in the May 26, 1982, IAB as ARC No. 2906. A public hearing was held on June 24, 1982.

No changes have been made from the Notice of Intended Action.

These rules will become effective September 30, 1982.

These rules are intended to implement Iowa Code sections 104.8 and 104.9.

ITEM 1. Amend rule 530—76.2(104) to read as follows:

530—76.2(104) Information to be submitted. When application is made to the ~~bureau of labor commissioner~~ for a new installation permit, ~~the elevator safety division shall require~~ the following information ~~to shall~~ be submitted ~~in writing~~:

ITEM 2. Adopt a new subrule 76.2(9) to read as follows:
76.2(9) Contract price of the installation.

ITEM 3. Amend rule 530—76.3(104) to read as follows:
530—76.3(104) Drawings and specifications. When application is made for an alteration permit, ~~this division shall require~~ drawings and specifications of all changes to be made *shall be submitted*.

ITEM 4. Strike rule 530—76.4(104) and insert the following in lieu thereof:

530—76.4(104) Placement of operating permits.

76.4(1) All operating permits shall be displayed in the car enclosure. Where the permit has been subjected to repeated defacing or vandalism it may be filed at the establishment and be made available upon request.

76.4(2) Escalator and moving walk operating permits shall be displayed on or near the unit for which they are issued.

76.4(3) Operating permits for dumbwaiters shall be displayed on the hoistway adjacent to the main floor door.

ITEM 5. Strike rule 530—76.5(104) and insert the following in lieu thereof:

530—76.5(104) Posting of installation or major alteration permit.

76.5(1) All installation or major alteration permits shall be kept at the worksite and be made available upon request.

76.5(2) Reserved.

ITEM 6. Amend subrule 76.6(1) to read as follows:

76.6(1) The commissioner ~~of labor~~ may permit the temporary use of any ~~elevator, dumbwaiter, escalator or moving walk facility~~ for passenger or freight service during installation, ~~or alteration or during the construction period~~, by issuing a temporary permit for each class of service upon the application of the owner.

ITEM 7. Amend subrule 76.6(4) to read as follows:

76.6(4) Automatic or continuous pressure elevators shall not be placed in temporary operation from the landing push buttons unless door locking devices or interlocks required by ANSI A17.1 ~~1971~~ 1981, are installed and operative.

ITEM 8. Amend rule 530—76.7(104) to read as follows:

530—76.7(104) Alterations. When any combination of alterations or changes are made constituting more than fifty percent of the elevator or hoistway construction as determined by the commissioner, the entire ~~installation facility~~ shall be brought into compliance with ANSI A17.1, ~~1971~~ 1981 and shall be deemed a new facility.

These rules are intended to implement Iowa Code section 104.3.

[Filed 7/28/82, effective 9/30/82]
[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3119**LABOR, BUREAU OF[530]**

Pursuant to the authority of Iowa Code Section 104.3(1)"j", the Commissioner of Labor hereby amends and adopts rules relating to variances 530—chapter 77 IAC. This change is being made because of the numerous minor changes, relocation of rules within the chapter and new rules. The amendments make minor changes to the present rules and adopt new rules for the issuance of nonpermanent variances at the time of the inspection by the elevator inspector for minor violations which will not appreciably affect the safe operation of the facility. These procedures implement Sixty-ninth General Assembly, Chapter 50, rules for permanent variances are included herein, but in general merely restate rules presently existing in 530—chapter 77.

Notice of Intended Action was published in the May 26, 1982, IAB as ARC No. 2907. A public hearing was held on June 24, 1982.

This rule is identical to the Notice of Intended Action.

These rules will become effective September 30, 1982.

These rules are intended to implement Iowa Code section 104.11, as amended by Acts of the Sixty-ninth General Assembly, Chapter 50.

LABOR, BUREAU OF[530] (*cont'd*)

ITEM 1. Amend rule 530—77.1(104) to read as follows:
530—77.1(104) Purpose and scope. This chapter contains rules of practice for administrative proceedings to grant variances and other relief under *Iowa Code* sections ~~104.3~~ and 104.11. These rules shall be construed to secure a prompt and just conclusion of proceedings subject thereto.

ITEM 2. Strike rule 530—77.2(104) and insert the following in lieu thereof:

530—77.2(104) Permanent variance and interim order. A permanent variance may be granted by the commissioner when the applicant can not comply with rules adopted by the commissioner without undue hardship. The commissioner shall consider the age of the facility, the general operating condition of the facility and the effect upon the safe operation of the facility under the variance in determining if a variance should be granted.

77.2(1) Any owner of a facility covered under chapter 104 desiring a permanent variance from a rule or portion thereof may file a written application with the commissioner.

77.2(2) Contents. An application filed pursuant to 77.2(1) shall include:

- a. The name and address of the applicant;
- b. The address, specific location, and state I.D. number, if any, of the facility involved;
- c. A description of the operation and type of facility;
- d. A listing of the rules to which the variance would apply;
- e. A representation by the owner specifying the undue hardships which would arise from compliance with chapter 104 and its applicable rules and the effect upon the safe operation of the facility under the variance supported by representation from qualified persons having firsthand knowledge of the facts represented; and
- f. A request for a hearing if one is desired.

77.2(3) Interim order. An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The commissioner may rule *ex parte* upon the application.

ITEM 3. Strike rule 530—77.3(104) and insert the following in lieu thereof:

530—77.3(104) Temporary variance. A temporary variance may be granted by an inspector for violations which would be considered to be noncritical to the safe operation of the facility. A temporary variance shall only be issued if the facility passed inspection on all other matters and failure to grant a temporary variance would result in a reinspection of the facility.

77.3(1) Application for variance. Any owner of a facility covered under chapter 104 desiring a temporary variance from a rule or portion thereof, may seek a temporary variance. The owner may make a verbal request to the inspector at the time of the inspection or the inspector may grant a variance on his own initiative.

77.3(2) An inspector will consider the following factors prior to granting or denying a request for a temporary variance.

- a. Degree and probability of threatened harm to the users of the facility;

- b. A determination that the issuance of the variance will not substantially affect safe operation of the facility and the minor infractions cannot be corrected before the inspection is completed;

- c. Degree of difficulty in abating the violation; and
- d. General operating condition of the facility.

77.3(3) Upon granting a temporary variance, the inspector shall issue to the owner a written statement of the objects, conditions and violations covered by the temporary variance.

77.3(4) If a variance is denied, the owner may make a written application to the commissioner stating the factors believed to support the variance.

77.3(5) A temporary variance will be valid until the next inspection, although the owner is expected to comply as promptly as possible.

77.3(6) Temporary variances shall only be issued by employees of the bureau of labor.

ITEM 4. Strike rule 530—77.4(104) and insert the following in lieu thereof:

530—77.4(104) Form of documents and copies. No particular form is prescribed for written applications and other papers filed in proceedings under this chapter. All applications for permanent variances or temporary variances submitted to the commissioner shall be clearly legible. An original and one copy of the application and all supporting documents shall be filed. All documents shall be signed and include the title of the applicant.

ITEM 5. Amend rule 530—77.5(104) to read as follows:
530—77.5(104) Modification and revocation of variance orders.

77.5(1) An affected person may apply in writing to the labor commissioner for a modification or revocation of a ~~any~~ variance order issued under section ~~104.11~~. The application shall contain:

- a. The name and address of the applicant;
- b. A description of the relief which is sought;
- c. A statement setting forth with particularity the grounds for relief; and
- d. ~~Any~~ A request for a hearing; as provided in this chapter if one is desired.

77.5(2) ~~The labor commissioner may on his own motion proceed move to modify or revoke a variance order issued under section 104.11. In such event, the labor~~ The commissioner shall ~~cause a notice of his intention to be published in accordance with the notice requirements of 77.2(104), affording interested persons an opportunity to submit written data, views or arguments regarding the proposal~~ inform the owner of the action and allow for a hearing.

ITEM 6. Strike rule 530—77.6(104) and insert the following in lieu thereof:

530—77.6(104) Action on application. Applicants shall be notified of the decision of the commissioner by a written order.

[Filed 7/28/82, effective 9/30/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3120**LABOR, BUREAU OF[530]**

Pursuant to the authority of Iowa Code Sections 104.3(1), 104.5 and 104.6, the Commissioner of Labor hereby adopts and amends rules relating to hearings, 530—Chapter 78 IAC.

These rules establish rules of procedure for administrative proceedings relating to the method and manner of requests for hearings, conduct of hearings and appeals, means of discovery, and the powers and duties of the commissioner in these proceedings.

Notice of Intended Action was published in the May 26, 1982, IAB as ARC No. 2908.

A public hearing was held on June 24, 1982.

A change was made in Item 10 to leave the rule such that the commission must decide whether his/her designee should be disqualified from hearing an appeal.

These rules are intended to implement Iowa Code section 104.10.

These rules will become effective September 30, 1982.

ITEM 1. Amend rule 530—78.1(104) to read as follows:

530—78.1(104) Purpose and scope. This chapter contains rules of procedure for administrative proceedings relating to the method and manner of request for hearings, conduct of hearings and appeals pursuant to section 104.3. These rules shall be construed to secure a prompt and just conclusion of proceedings subject thereto.

ITEM 2. Strike subrule 78.2(3) and renumber subrule 78.2(4) to be 78.2(3).

ITEM 3. Amend subrule 78.2(4) to read as follows:

78.2(4)(3) "Affected person" means ~~anyone~~ any person covered under subrule 78.2(2) who could be affected aggrieved by any a decision of the hearing examiner commissioner.

ITEM 4. Amend subrule 78.3(1) to read as follows:

78.3(1) Request for hearing. Within thirty days after any action concerning an affected person, said a person may file with the labor commissioner; in quadruplicate, a request for a hearing.

ITEM 5. Strike subrule 78.3(2) and insert the following in lieu thereof:

78.3(2) Contents of request. A request for a hearing shall include a concise statement of facts showing how the person would be affected and any views or arguments on any issue of fact or law presented.

ITEM 6. Amend rule 530—78.4(104) to read as follows:

530—78.4(104) Consolidation of proceedings. The labor commissioner on his/her own motion or that of any party may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issued.

ITEM 7. Amend subrule 78.5(1) to read as follows:

78.5(1) Service. Upon request for a hearing as provided in this chapter, or upon his/her own initiative, the labor commissioner shall serve, or cause to be served, a reasonable notice of hearing.

ITEM 8. Amend subrule 78.5(2) to read as follows:

78.5(2) Contents. A notice of hearing served under subrule 78.5(1) shall include:

- a. The time, place, and nature of the hearing;
- b. The legal authority under which the hearing is to be held; and

- c. A specification of issues of fact and law.

ITEM 9. Amend subrule 78.7(1) to read as follows:

78.7(1) Powers. The labor commissioner or his designee shall preside over the hearing and shall have all powers and duties necessary or appropriate to conduct a fair, full and impartial hearing, including the following:

- a. To administer oaths and affirmations;
- b. To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- c. To make, or cause to be made, an inspection of the facility involved;
- d. To ~~made~~ make decisions in accordance with the Act and this chapter; and
- e. To take any other appropriate action authorized by the Act or this chapter.

ITEM 10. Amend subrule 78.7(3) to read as follows:

78.7(3) Disqualification. When the labor commissioner or his designee deems himself disqualified to preside determines that in the best interest of the parties he/she should not preside, or to continue to preside, over a particular hearing, he/she will shall withdraw therefrom by giving notice to the parties and the labor commissioner shall designate another. Any party who deems the labor commissioner or his designee for any reason to be disqualified to from preside presiding, or to continue to preside, over a particular hearing, may file with the labor commissioner a motion for disqualification and removal, such the motion to shall be supported by affidavits setting forth the alleged ground for disqualification. The labor commissioner shall rule upon the motion. Such decision shall be deemed final for the purposes of judicial review.

ITEM 11. Amend subrule 78.7(4) to read as follows:

78.7(4) Contumacious conduct; failure or refusal to appear or obey the rulings of the hearing examiner commissioner. Contumacious conduct at any hearing before the hearing examiner commissioner shall be grounds for exclusion from the hearing. If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing examiner commissioner may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of an applicant or regulating the contents of the record of the hearing.

ITEM 12. Strike rule 530—78.9(104) and renumber subsequent rules as necessary.

ITEM 13. Amend rule 530—78.10(104) to read as follows:

530—78.9 (104) Decisions of hearing examiner commissioner. Within a reasonable time, the hearing examiner shall make his decision which shall be reviewed and countersigned by the labor commissioner. The commissioner shall render a decision within a reasonable time of the hearing. The labor commissioner shall serve the decision upon each party, and the decision shall become final upon the twentieth day after service thereof. The decision shall include:

1. A state of findings and conclusions, with reasons and basis therefor, upon each material issue of fact, law, or discretion presented on the record, and
2. The appropriate rule, order, relief or denial thereof. The decision shall be based upon a consideration of the whole record. It shall be made on the basis of a preponderance of reliable and probative evidence.

LABOR, BUREAU OF[530] (cont'd)

ITEM 14. Amend rule 530—78.11(104) to read as follows:

530—78.10(104) Appeals. Appeal from a hearing examiner's the commissioner's final order shall be to the Iowa Occupational Safety and Health Review Commission pursuant to its rules.

These rules are intended to implement Iowa Code chapter 104.

[Filed 7/28/82, effective 9/30/82]
[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

ARC 3113

PHARMACY EXAMINERS, BOARD OF[620]

Pursuant to the authority of the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 2304, Section 94, the Iowa Board of Pharmacy Examiners on July 13, 1982, adopted the following rules which will amend Chapter 6 "Minimum Standards for the Practice of Pharmacy" to allow for the review of all financial records in pharmacies licensed under Iowa Code Section 155.10 and will amend Chapter 10 "Discipline" to allow for disciplinary action to be taken against a license to operate a pharmacy under Iowa Code Section 155.10.

Notice of Intended Action was published in IAB 19, March 17, 1982, as ARC 2784. Minor changes were made from such notice.

These rules will become effective on September 22, 1982.

ITEM 1. Rule 620—6.10(69GA, SF2304) is amended to read as follows:

620—6.10(69GA, SF2304) Medical assistance Act participation. Pharmacies licensed under Iowa Code section 155.10, who participate in the medical assistance Act, Iowa Code chapter 249A, shall collect copayments from eligible recipients as set out under IAC (770), subrule 79.1(4), paragraph "a". In addition, those medical assistance Act participating pharmacies who also participate in private third-party payor prescription drug insurance or benefit plans shall also collect the applicable copayment from beneficiaries or subscribers of those insurance or benefit plans. Pharmacies who reduce charges to persons participating in private third-party payor prescription drug insurance or benefit plans by the distribution of free merchandise directly or indirectly through coupon or rebate programs shall provide the same reductions to the beneficiaries of the medical assistance Act, Iowa Code chapter 249A, except that payments of free merchandise or its cash equivalent shall be made directly to the state agency administering the medical assistance Act. The state agency responsible for administering the medical assistance Act shall be deemed to be participating in such coupon or rebate programs immediately upon their offering and shall continue to participate for the full period of their existence.

6.10(1) Definitions.

a. Third-party payor prescription drug insurance or benefit programs do not include the following:

- (1) Medicare
- (2) Major medical programs
- (3) Programs which reimburse pharmacies on any basis other than fee for service plus drug cost.

b. Prescription drugs shall include any and all drugs which are reimbursed by third-party payor prescription drug insurance or benefit programs and the medical assistance program. For the purposes of this chapter, the definition of drugs and medicines in Iowa Code section 155.3, subsection 1, shall apply to prescription drugs.

c. The secretary shall mean the executive secretary of the Iowa board of pharmacy examiners.

6.10(2) Maintenance and availability of records.

a. Pharmacies who participate in private third-party payor prescription drug insurance programs and the medical assistance program shall maintain financial and other records which include but are not limited to the following:

- (1) Documentation relative to the collection of patient co-payments.
- (2) Billings to third-party payor prescription drug insurance or benefit programs.
- (3) Payments received from third-party payor prescription drug insurance or benefit programs.

b. The records covered in 6.10(2)"a" shall be maintained for a period of two years.

c. The records required by 6.10(2)"a" shall be made available at the address of the pharmacy within seventy-two hours of receipt of a written request from the secretary.

6.10(3) Discipline.

a. Noncompliance with the provisions of these rules will result in the initiation of proceedings as detailed in board rule 9.2(17A,147,155,203A,204,205). Any disciplinary action taken as the result of an administrative hearing will comply with the provisions in chapter 10 of board rules with the exception that the board shall require restitution of any overpayments made by the state medical assistance program. Such restitution shall be made directly to the medical assistance program and the state agency responsible for administering that program.

b. Notification of any disciplinary action decision shall be made to the state agency responsible for administering the medical assistance program. A copy of the decision of the board shall constitute notification.

ITEM 2. Subrule 10.1(2) is amended to read as follows:

10.1(2) The board has the authority to impose the following disciplinary sanctions:

- a. Revocation of a ~~license or~~ registration or of a license to operate a pharmacy or to practice pharmacy.
- b. Suspension of a ~~license or~~ registration or of a license to operate a pharmacy or to practice pharmacy until further order of the board or for a specified period.
- c. Nonrenewal of a ~~license or~~ registration or of a license to operate a pharmacy or to practice pharmacy.
- d. Prohibit permanently, until further order of the board, or for a specified period, the engaging in specified procedures, methods or acts.
- e. Probation.
- f. Require additional education or training.
- g. Require a re-examination.
- h. Order a physical or mental examination.
- i. Impose civil penalties not to exceed \$1000.00.
- j. Issue citation and warning.

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k. Such other sanctions allowed by law as may be appropriate.

l. *Suspend for a specified period of time the licensee's privilege to participate in the medical assistance program operated by the state.*

ITEM 3. Subrule 10.1(4) paragraph "a" is amended to read as follows:

a. Fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a license to practice pharmacy or to operate a pharmacy in this state, and includes false representations of a material fact, whether by word or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged diploma, certificate or affidavit or identification or qualification in making application for a license in this state.

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ARC 3111

PUBLIC INSTRUCTION
DEPARTMENT[670]

Pursuant to the authority of Iowa Code Section 257.10(11), the Iowa Department of Public Instruction adopts rules regarding the endorsement and authorization for postsecondary personnel.

The Iowa State Board of Public Instruction adopted amendments to Chapter 15, "Endorsements," in their final form on Thursday, July 8, 1982. A public hearing was held on March 11, 1982 in the Grimes State Office Building; written comments were also received. On the basis of the oral and written comments several changes were made in the adopted rules.

The department's notice of intention to adopt the amendments to Chapter 15, "Endorsements," was published in the Iowa Administrative Bulletin on February 17, 1982 under Notice of Intended Action under ARC 2717.

Changes from such notice are as follows:

Subrule 15.32(1) was divided into options and the basic certification requirements were added in order to provide more clarity.

Subrule 15.32(2) was also renumbered as 15.32(3) and divided for style and clarity. In paragraph "b" subparagraph (2), the terminology in item "4" was expanded to accommodate more offerings.

Subrule 15.35(2) was modified as follows: (1) Paragraph "a" was modified by eliminating any approval by the advisory committee as the State Board has this authority. (2) Paragraph "b" was modified by providing clarification on the nature of the "new teachers' workshop."

Rule 670—15.36(257) was modified by the inclusion of several staff positions as suggested in written or oral comments.

These rules are intended to implement Iowa Code section 257.10(11).

These rules will become effective January 1, 1983.

ITEM 1. Rule 670—15.32(257) is rescinded and the following inserted in lieu thereof:

670—15.32(257) Instructors.

15.32(1) Preparatory vocational technical programs. To qualify for a professional certificate with authorization to teach in preparatory vocational or technical programs in an area vocational school or an area community college, an applicant shall:

Option I. Have completed an approved bachelor's degree teacher education program in a recognized institution, with the necessary experience and specialization for teaching in one or more preparatory vocational or technical fields offered in the vocational technical division of an area school, or.

Option II. Qualify by:

- a. Having a bachelor's degree,
- b. Having completed basic certification requirements outlined in Iowa Code section 260.2 (age, physical competence, morally fit) and the Iowa administrative rules, 670—13.18(257) to 13.21(257) (human relations) and 670—13.23(257) (American history or government) and
- c. Having five years of teaching experience, or the equivalent thereof, at the postsecondary level in the subject or program area of responsibility.

15.32(2) Preprofessional Certificate. To qualify for a preprofessional certificate with authorization to teach in preparatory vocational or technical programs in an area vocational school or an area community college, an applicant shall submit evidence of preparation and experience as follows:

Option I:

a. Meet basic certification requirements outlined in Iowa Code section 260.2 (age, physical competence, morally fit) and the Iowa administrative rules, 670—13.18(257) to 13.21(257) (human relations) and 670—13.23(257) (American history or government) and

b. Meet requirements indicated in the Iowa state plan for the administration of vocational education within career education which includes:

(1) A new teachers' workshop of approximately thirty clock hours and specified competencies,

(2) Competency development in four basic study areas: Methods and techniques of teaching; course and curriculum development; measurement and evaluation of programs and students; and history and philosophy of vocational or career education, and

(3) A specified amount of occupational experience, or

Option II: Qualify by having met the basic certification requirements outlined in subrule 15.32(2), in option I, "a" above and five years of teaching experience, or the equivalent thereof, at the postsecondary level in the subject or area of responsibility.

15.32(3) Arts and science (transfer division). To qualify for a professional certificate with authorization to teach in an arts and science field in an area community college, an applicant shall:

Option I. Have completed an approved master's degree program of preparation at a recognized institution. The program must include a minimum of six semester hours of professional studies appropriate for community college teaching, or

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Option II. Submit evidence of preparation and experience as follows:

a. Meet basic certification requirements outlined in Iowa Code section 260.2 (age, physical competence, morally fit) and the Iowa administrative rules, 670—13.18(257) to 13.21(257) (human relations) and 670—13.23(257) (American history or government) and

b. Have a master's degree in a field of instruction from a regionally accredited graduate school, or in special fields or areas including, but not limited to, accounting, business, developmental and remedial skills, engineering, law, law enforcement and medicine, may be certified on the basis of two or more years of successful experience in the fields or areas they will instruct and the possession of the academic preparation ordinarily required for such special fields or areas, and

c. A new teachers' workshop of approximately thirty clock hours in specified competencies, and

d. Competency attainment in the four basic study areas of: Methods and techniques of teaching; course and curriculum development; measurement and evaluation of programs and students; and history and philosophy of the development of the community college, or

Option III. Qualify by having a master's degree, completion of the basic certification requirements indicated in subrule 15.32(3), option II, "a" above, and five years of teaching experience or the equivalent, thereof, at the postsecondary level in the subject or area of responsibility.

15.32(4) High school completion. Instructors of high school completion programs must hold certification to teach in a secondary school.

This rule is intended to implement Iowa Code section 257.10(11).

ITEM 2. Rule 670—15.33(257) is rescinded and the following inserted in lieu thereof:

670—15.33(257) Support staff/services personnel.

15.33(1) Librarian/learning resource specialist. For authorization to serve as a librarian/learning resource specialist, an applicant shall hold a master's degree in library science from an accredited graduate school. The preparation shall include six semester hours of professional preparation appropriate for community college service, or adequate experience in college service or its equivalent as evaluated by a review committee appointed by the state superintendent of public instruction shall be accepted in lieu of part or all of the required credits in professional education.

15.33(2) Media specialist. For authorization to serve as a media specialist, an applicant shall hold a master's degree in media specialization from an accredited graduate school. The preparation shall include six semester hours of professional preparation appropriate for community college service, or adequate experience in college service or its equivalent as evaluated by a review committee appointed by the state superintendent of public instruction shall be accepted in lieu of part or all of the required credits in professional education.

15.33(3) Counselor. For authorization to serve as a counselor, an applicant shall hold a master's degree in counseling or in college student personnel work with an emphasis in counseling from an accredited graduate school. Preparation shall include six semester hours of professional preparation appropriate for community college service, or adequate experience in college teaching or its equivalent as evaluated by a review committee appointed by the state superintendent of public instruc-

tion shall be accepted in lieu of part or all of the required credits in professional education. Recognition shall be given to the value of employment experience outside of education in appointing counselors to work with students.

15.33(4) Curriculum specialist. For authorization to serve as a curriculum specialist in an area school/college, an applicant must have met the requirements for a certificate endorsed for one of the several types of teaching service at the postsecondary level and, in addition thereto, have secured a master's degree from a recognized institution. Such master's degree is to include an emphasis in postsecondary level supervision or curriculum, as well as specific graduate work in the academic area of interest, provided further that said applicant shall have had curriculum development experiences either with or without credit; or, in lieu thereof, equivalent experiences. In addition, an applicant shall present evidence of three years of successful education/occupational experience.

15.33(5) Staff development officer. For authorization to serve as a staff development officer, an applicant shall have completed a master's degree from a recognized institution. The preparation shall be appropriate for staff development responsibilities. Preparation shall include six semester hours of professional preparation appropriate for community college service, or adequate experience in college teaching or its equivalent as evaluated by a review committee appointed by the state superintendent of public instruction shall be accepted in lieu of part or all of the required credits in professional education.

15.33(6) Coach. For authorization to serve as a coach in an area vocational school or an area community college, an applicant must have met the requirements for a certificate endorsed for one of the several types of teaching service at the postsecondary level and shall have completed an approved program in coaching or have completed the minimum courses required by the state board of public instruction or be approved to teach physical education.

This rule is intended to implement Iowa Code section 257.10(11).

ITEM 3. Rule 670—15.34(257) is rescinded and the following inserted in lieu thereof:

670—15.34(257) Instructional administration.

15.34(1) Instructional division administration. For authorization to serve as an administrator of an instructional division or in an area of instructional responsibility, an applicant shall submit evidence of preparation and experience as follows:

a. Meet the basic certification requirements.

b. Completion of a master's degree granted by an institution recognized by the state board of public instruction, with specialization in one of the following:

- (1) Administration,
- (2) Subject matter field taught in the area institution,
- (3) Vocational-technical education,
- (4) Adult education, or
- (5) Student services.

c. Four years of successful educational work experience of which a minimum of two years must have been at the postsecondary level. Experience must include a minimum of two years of teaching or experience appropriate to the area to be administered.

15.34(2) Instructional unit administrator. For authorization to serve as an administrator of an instructional unit, department, or section, the applicant shall

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submit evidence of preparation and experience as follows:

- a. Hold a certificate with the appropriate endorsement and approval for the field or area.
- b. Completion of a bachelor's degree from an institution recognized by the state board of public instruction or complete said degree during the term of the certificate held.
- c. Four years of successful educational work experience of which a minimum of two years must have been at the postsecondary level. Experience must include a minimum of two years of teaching or experience appropriate to the area to be administered.

This rule is intended to implement Iowa Code section 257.10(11).

ITEM 4. Rescind rule 670—15.35(257) and insert a new 15.35(257):

670—15.35(257) Learning center administrator and adjunct or part-time personnel. For authorization to serve as a learning center administrator, an adjunct or part-time instructor in preparatory vocational-technical program, arts and science (college parallel program) or high school completion program or support staff/services part-time (staff development officer, librarian/learning resource specialist, media specialist, counselor, curriculum specialist), the individual must meet the following state approved standards.

Persons serving in these functions shall not be required to hold a teacher's certificate; however, they shall meet the standards and qualifications set forth for each assignment. The local area college board shall have the responsibility to determine compliance with the standards and to record and have available locally such compliance and to report on forms provided by the department of public instruction any necessary information.

15.35(1) Learning center administrator. The applicant must meet requirements to serve as one of the following:

- a. Division or area instructional administrator, or
- b. Librarian, learning resource specialist or media specialist, or
- c. Have a master's degree in an area that is related to one of the functions of the learning center.

15.35(2) Adjunct and part-time instructional faculty.

- a. Preparatory vocational/adjunct — specific amount of occupational experience as provided for in the Iowa state plan for the administration of vocational education within career education.

- b. Preparatory vocational/part-time — complete a locally or consortia designed staff development workshop to meet specific competencies, and have the specific amount of occupational experience as provided for in the Iowa state plan for the administration of vocational education within career education.

- c. Arts and science (college parallel).

- (1) A master's degree in a field of instruction from a regionally accredited graduate school, or, in special fields or areas including but not limited to accounting, business, developmental and remedial skills, engineering, law, law enforcement, and medicine, may be certified on the basis of two or more years of successful experience in the field or area they will instruct and the possession of the academic preparation ordinarily required for such special fields or areas, and

- (2) Complete a locally or consortia designed staff development workshop to meet specific competencies.

- d. High school completion — hold a valid certificate endorsed for service at the secondary level.

15.35(3) Staff development officer — a master's degree with background and experience appropriate to staff development activities.

15.35(4) Librarian/learning resource specialist — a master's degree in library science from an accredited graduate school. The preparation shall include six semester hours of professional preparation appropriate for community college service, or adequate experience in college service or its equivalent as evaluated by a review committee appointed by the state superintendent of public instruction shall be accepted in lieu of part or all of the required credits in professional education.

15.35(5) Media specialist — a master's degree in a media specialization from an accredited graduate school. The preparation shall include six semester hours of professional preparation appropriate for community college service, or adequate experience in college service or its equivalent as evaluated by a review committee appointed by the state superintendent of public instruction shall be accepted in lieu of part or all of the required credits in professional education.

15.35(6) Counselor — a master's degree in counseling or in college student personnel work with an emphasis in counseling from an accredited graduate school. Preparation shall include six semester hours of professional preparation appropriate for community college service, or adequate experience in college teaching or its equivalent as evaluated by a review committee appointed by the state superintendent of public instruction shall be accepted in lieu of part or all of the required credits in professional education. Recognition shall be given to the value of employment experience outside of education in appointing counselors to work with students.

15.35(7) Curriculum specialist — a master's degree from a recognized institution in a content area with course work in postsecondary level supervision and curriculum.

15.35(8) Continuous review. These state approved standards are to be kept under continuous review by a state-wide representative group of area college and department of public instruction persons. Any modifications and changes shall be approved by the state board of public instruction.

This rule is intended to implement Iowa Code section 257.10(11).

ITEM 5. Rescind 670—15.36(257) and insert in lieu thereof the following:

670—15.36(257) Noninstructional administrators, adult co-ordinators, occasional and specialized personnel and support staff. Persons employed in the following functions/responsibilities shall not be required to hold an Iowa teacher's certificate. Each area school board shall develop and adopt local standards for the employment and assignments of such persons. The standards shall be available locally for review and shall be made available to the department of public instruction upon request.

Following are the personnel covered by this rule:

Noninstructional administrators: Assistant superintendent, associate superintendent, administrative assistant.

Adult or special needs co-ordinators.

Occasional — specialized — substitute: Adult basic education, general educational development preparation, continuing and general, supplemental vocational, coach (persons who are not full-time faculty members), preparatory vocational, college parallel.

PUBLIC INSTRUCTION DEPARTMENT[670] (cont'd)

Support staff:

Assistant/associate librarian, learning resource specialist and media specialist/technician.

Business area: Manager, purchasing agent, accountant, personnel manager.

Ancillary services: Area agency on aging, Comprehensive Employment Training Act youth employment, sheltered workshop, aides, interns, institutional data processing.

Student services: Registrar, placement officer, financial aid officer, admissions officer, activities co-ordinator, relations/outreach worker, media technician.

The department of public instruction shall keep this area under continuous review.

This rule is intended to implement Iowa Code section 257.10(11).

ITEM 6. Rescind 670—15.37(257) and insert in lieu thereof the following:

670—15.37(257) Definitions. For the purposes of this rule on area school personnel, the following concepts and definitions apply.

15.37(1) Work experience. A year of work experience in college teaching or its equivalent or a year in work experience in a special field or area may be substituted for three semester hours of professional preparation appropriate for community college teaching.

15.37(2) Half-time or more is defined to mean those faculty who are employed for a period covering consecutively three quarters or two semesters per school year and who have an assignment equivalent to fifty percent or more of what has been established as a maximum full-time load by area school laws and standards or by local policy in cases where laws and standards do not apply. This information has application to matters related to certification of staff.

15.37(3) Adjunct is less than half-time which is defined to mean those faculty who are employed less than a period covering consecutively three quarters or two semesters per school year and who have an assignment equivalent to less than fifty percent of what has been established as a maximum full-time load by area school laws and standards or by local policy in cases where laws and standards do not apply but without an expectation of continued employment.

15.37(4) Part-time is less than half-time which is defined to mean those faculty who are employed less than a period covering consecutively three quarters or two semesters per school year or who have an assignment equivalent to less than fifty percent of what has been established as a maximum full-time load by area school laws and standards or by local policy in cases where laws and standards do not apply and who have an expectation of continued employment.

This rule is intended to implement Iowa Code section 257.10(11).

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ARC 3134

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 41) are hereby amended. The Council on Social Services adopted this rule July 28, 1982.

Notice of Intended Action regarding this rule was published in the IAB April 14, 1982, as ARC 2819. This rule clarifies when the assets of a trust are considered available. This rule is the result of an adverse court decision and will remove unreasonable demands on the recipient and simplify administration.

The wording of the rule was changed to clarify the process and specify how the department will only count resources that are available to the recipient.

This rule is intended to implement Iowa Code section 239.5.

This rule shall become effective October 1, 1982.

Subrule 41.6(8) is rescinded and the following inserted in lieu thereof:

41.6(8) Trusts. When assets from a trust or conservatorship, except one established solely for the payment of medical expenses, together with other resources exceed resource limitations, the department shall determine whether the assets are available by examining the language of the trust agreement or order establishing a conservatorship. In the absence of evidence to the contrary, funds conserved for care, support, or maintenance shall be considered available. Payments received from the trust or conservatorship for basic or special needs are considered income.

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ARC 3135

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 46) are hereby amended. The Council on Social Services adopted this rule July 28, 1982.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

Notice of Intended Action regarding this rule was published in the IAB May 26, 1982, as ARC 2899. This rule clarifies that recoupment is from resources considered in determining eligibility.

This rule is identical to that published under notice.

This rule is intended to implement Iowa Code sections 239.4, 239.6, 239.14, and 239.17.

This rule shall become effective October 1, 1982.

Rule 770—46.5(239) is amended to read as follows:

770—46.5(239) Source of recoupment. Recoupment shall be made from liquid resources *considered in determining eligibility*, earned income disregard, the basic needs or the resources of a sponsor or sponsor's spouse which were deemed available to the alien according to 41.6(9). Regardless of the source, the client may choose to make a lump sum payment, make periodic installment payments, or have repayment withheld from the warrant. The client shall sign form PA—3164—0, Agreement to Repay. When the client refuses to designate a method of recoupment or fails to make the agreed upon payment, the agency is empowered to make a warrant reduction shall reduce the warrant. Recoupment, whether it be by a lump sum payment, periodic installment payments, or withholding from the warrant, can be made from one or any combination of the following sources:

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ARC 3136

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 249A.4, rules of the Department of Social Services appearing in the IAC relating to medical assistance (Chapter 78) are hereby amended. The Council on Social Services adopted these rules July 28, 1982.

Notices of Intended Action regarding these rules were published in the IAB March 3, 1982, as ARC 2738 and April 28, 1982, as ARC 2850. The rules specify what examinations must be performed before payment will be made for a hearing aid and who may perform the examinations.

The rules were rewritten to provide for four examinations instead of three. The purpose of each examination was explained better and the form used for reporting results specified. Subrule 78.14(6) was also reworded.

These rules are intended to implement Iowa Code section 249A.2(6).

These rules shall become effective October 1, 1982.

Rule 770—78.14(249A) and subrules 78.14(1) to 78.14(4) are rescinded, subrule 78.14(5) is renumbered 78.14(7), and the following is inserted:

770—78.14(249A) Hearing aids. Payment shall be approved for a hearing aid and examinations subject to the following conditions:

78.14(1) Physician examination. The recipient shall have an examination by a physician to determine that the recipient has no condition which would contraindicate the use of a hearing aid. This report shall be made on form MA-2113-0, part 1, Report of Examination for a Hearing Aid.

78.14(2) Audiological testings. Specified audiological testing shall be performed by a physician or an audiologist as a part of making a determination that a recipient could benefit from the use of a hearing aid. The audiological testing shall be reported on form MA-2113-0, part 2.

78.14(3) Hearing aid evaluation. A hearing aid evaluation establishing that a recipient could benefit from a hearing aid shall be made by a physician or audiologist. The hearing aid evaluation shall be reported on form XIX-Audio-2, Hearing Aid Selection Report. When a hearing aid is recommended for a recipient the physician or audiologist recommending the hearing aid shall see the recipient at least one time within thirty days subsequent to purchase of the hearing aid to determine that the aid is adequate.

78.14(4) Hearing aid selection. A physician or audiologist may recommend a specific brand or model appropriate to the recipient's condition. When a general hearing aid recommendation is made by the physician or audiologist, a hearing aid dealer may perform the tests to determine the specific brand or model appropriate to the recipient's condition. The hearing aid selection shall be reported on form XIX-Audio-2, Hearing Aid Selection Report.

78.14(5) Travel. When a recipient is unable to travel to the physician or audiologist because of health reasons, payment shall be made for travel to the recipient's place of residence or other suitable location. Payment to physicians shall be made as specified in 78.1(8) and payment to audiologists shall be made at the same rate at which state employees are reimbursed for travel.

78.14(6) Purchase of hearing aid. Payment shall be made for the type of hearing aid recommended when purchased from an eligible licensed hearing aid dealer pursuant to rule 770—77.13(249A). When binaural amplification is recommended prior approval shall be obtained from the fiscal agent before payment can be made.

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ARC 3137

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 249A.4, rules of the Department of Social Services appearing in the IAC relating to medical assistance (Chapter 79) are hereby amended. The Council on Social Services adopted these rules July 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB June 9, 1982 as ARC 2948. These rules place physician reimbursement on the basis of state-wide, prevailing fees, exclude physicians from the two and one-half percent reduction in reimbursement, and exclude hospitals from the two and one-half percent reduction in reimbursement only after October 1, 1982.

Item 1 was changed to show fees are determined by physician specialty.

These rules are intended to implement Iowa Code section 249A.4, and Acts of the Sixty-ninth General Assembly, 1982 Session, S.F. 2304, Section 98.

These rules shall become effective October 1/19/82.

ITEM 1. Rule 770—79.1(249A), second unnumbered paragraph, is rescinded and the following inserted in lieu thereof:

Payment for services provided by noninstitutional providers of care participating in the program will be based on reasonable charges utilizing the methods and criteria in effect for these providers in the Medicare program except for physicians (doctors of medicine and osteopathy) where reimbursement will be established on the basis of the state-wide prevailing fee for each recognized physician specialty as determined by the methods in effect in the Medicare program but subject to a maximum five percent annual increase in fees. For providers of service not participating in Medicare, the department with the advice of the various professional groups participating in the program has developed schedules of maximum allowances for use in determining payment. Providers of care must accept reimbursement based upon reasonable charges as determined by the department making no additional charge to the recipient.

ITEM 2. Subrule 79.1(5) reads as follows:

79.1(5) After reimbursement for medical assistance has been determined in accordance with appropriate procedures in place for each provider, this amount shall be reduced by a factor of two and one-half percent except for payments made to physicians, an intermediate care facility, intermediate care facility for the mentally retarded, state mental health institutes, hospitals after October 1, 1982, and the ingredient cost on prescription drugs.

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ARC 3138

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 234.6, rules of the Department of Social Services appearing in the IAC relating to social services block grants (Chapter 131) are hereby amended. The Council on Social Services adopted these rules July 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB June 9, 1982, as ARC 2954. These rules provide procedures for the development and amendment of the pre-expenditure report, availability of services, allocation of block grant funds, local purchase services, and advisory committees. With respect to the allocation formula, the council, in adopting these rules, recognizes the extremely limited nature of its discretion in view of the state law.

Wording was clarified in 131.1(3), 131.3(1), 131.3(2), and 131.4(2). The question of legal settlement was clarified in 131.4(3). Provision for purchase from another county was added to 131.6(1). "May" was changed to "shall" in the last sentence of 131.6(6). Rule 770—131.7(234) was reorganized and reworded.

These rules are intended to implement Iowa Code section 234.6 and Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304, Section 108.

These rules shall become effective October 1, 1982.

770—Chapter 131 is rescinded and the following inserted in lieu thereof:

CHAPTER 131

SOCIAL SERVICES BLOCK GRANT

770—131.1(234) Definitions.

131.1(1) Direct services. "Direct services" means services provided by staff of the department of social services to clients. This includes the administrative support necessary to maintain and oversee services. Direct services are funded with state and federal dollars.

131.1(2) State purchase services. "State purchase services" means those services the department purchases in every county statewide. State purchase services are funded with state and federal funds.

131.1(3) Local purchase services. "Local purchase services" means those services available in any county. These services may vary from county to county. Local sources provide a twenty-five percent match for these services and the state and federal governments provide seventy-five percent.

131.1(4) Protective day care. "Protective day care" means day care provided to children to prevent or alleviate child abuse or neglect. This purchase service is available throughout the state. Protective day care is funded with federal funds.

131.1(5) County administrative costs. "County administrative costs" include the rent, utilities and other related costs the county must pay to maintain a county social

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services office. These costs are funded from state, federal and county sources.

131.1(6) District offices. "District offices" means the department of social services' eight field offices which co-ordinate all service delivery. The eight district offices are located in Cedar Rapids, Council Bluffs, Davenport, Des Moines, Mason City, Ottumwa, Sioux City, and Waterloo.

770—131.2(234) Development of pre-expenditure report.

131.2(1) The department of social services shall develop the social services block grant pre-expenditure report on an annual basis. The report shall be developed in accordance with federal regulations, Code of Federal Regulations 45 CFR 96 as amended October 1, 1981. The report shall describe the services to be funded, in what areas services are available and the amount of funding available. The plan shall also indicate the source of funding.

131.2(2) The department shall issue a proposed pre-expenditure report prior to publication of the final report. The proposed report shall be available for public review and comment in each district office of the Iowa department of social services during regular business hours for a two-week period.

131.2(3) The time and scope of public review will be announced each year. The announcement will indicate the time the proposed report can be viewed. The department shall make this information available to the media, post signs in each district and local social services office and may publish ads in each district listing the time of review.

131.2(4) The department shall accept comments about the pre-expenditure report during the specified public review and comment period. The advisory committees, individuals or groups may submit written comments to the district or to the Iowa Department of Social Services, Division of Community Programs, Title XX Unit, Hoover State Office Building, Des Moines, Iowa 50319. Public hearings may be arranged by the district administrator at which time testimony will be accepted.

Comments concerning locally purchased services will be forwarded to the county boards of supervisors within the district.

131.2(5) The department shall consider the public comment when developing the final pre-expenditure report.

131.2(6) A copy of the final pre-expenditure report will be available in each district office.

770—131.3(234) Amendments to pre-expenditure report.

131.3(1) The pre-expenditure report may be amended throughout the year. The department may file an amendment changing the kind, scope or duration of a service. Decisions to change a direct service, state purchase service or protective day care will be made by the department; decisions to change the kind or duration of local purchase services will be made by county boards of supervisors.

Prior to filing an amendment the department and the county boards of supervisors will evaluate available funds and the effect any change will have on clients.

131.3(2) An amendment in the pre-expenditure report will be posted in the district and local offices affected by the amendment at least thirty days prior to the effective date of the change. However, in the event

funding for the service has been exhausted, an amendment shall be posted immediately notifying the public that the service will no longer be available. The district administrator will, whenever possible, give advance notice of a service termination made necessary because funds have been exhausted.

131.3(3) The advisory committees, individuals or groups may submit written comments to the district or to the Iowa Department of Social Services, Division of Community Programs, Title XX Unit, Hoover State Office Building, Des Moines, Iowa 50319. Comments regarding amendments to local purchase services should also be directed to the county boards of supervisors in the county in which a change is being made.

131.3(4) Nothing in this rule will supersede the requirement for notifying clients of adverse action as provided in 770—130.5(234).

770—131.4(234) Service availability.

131.4(1) A client shall apply for services in the appropriate office of the Iowa department of social services.

a. The department shall determine eligibility according to 770—130.3(234).

b. The department shall develop a case plan to monitor the client's progress toward achieving goals as identified in 770—130.7(234).

131.4(2) An eligible client shall receive a service for which he or she is eligible, subject to the provisions of 770—chapter 130, when the service is listed in the geographic area in which the client resides. The geographic area for local purchase service is the county; the geographic area for direct, state purchase and protective day care is the state.

131.4(3) Funding for any service listed in the county's section of the pre-expenditure report is available for any eligible client who resides in that county, subject to the provisions of the report. The county of legal settlement shall provide the twenty-five percent match.

770—131.5(234) Allocation of block grant funds.

131.5(1) The amount of social services block grant dollars allocated to direct services shall be determined by estimating the cost of performing each direct service function. These estimates shall consider costs for direct staff salaries, administrative salaries and support costs, including data processing costs, rent, utilities, and similar items. The department will follow a cost allocation plan for determining the appropriate costs of the department's central office to be funded with block grant money.

131.5(2) The amount of funding allocated to state purchase services shall be based on the need for the service and on previous use of that service. Each district will receive state purchase funds.

a. The available family planning dollars will be divided among the districts at fifty percent of the funds on the basis of poverty population and fifty percent of the funds on the basis of the previous year's allocation.

b. The available foster care dollars are allocated among the districts based on previous utilization.

c. Administrative support dollars which are used for volunteer services are divided equally among the eight districts.

131.5(3) The amount of funding available for local purchase services shall be based on previous use of these funds.

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a. The amount of funding available for local purchase services shall then be divided among the districts based on the following formula: Fifty percent of the available funds will be divided on the basis of poverty population and fifty percent of the funds will be divided on the basis of the previous year's allocation.

b. Funds allocated to each district will be distributed to counties within the district by the district administrator using the following formula: Fifty percent based on the poverty population within a county and fifty percent based on the county's previous utilization. For state fiscal year 1983, eighteen months of county utilization history will be the base.

131.5(4) The amount of funding available for protective day care is based on each district's projection of need.

131.5(5) The amount of funding available for county administration is determined by examining past utilization.

770—131.6(234) Local purchase planning process.

131.6(1) The county boards of supervisors in each county will determine what services they wish to provide with the social services block grant funds allocated to the county. The county board of supervisors may purchase services from other counties. They will choose services from a list provided by the department. The county boards of supervisors will determine how much funding they wish to place in each service and for what period of time during the pre-expenditure report year they wish to fund the services. However, in making these decisions, the supervisors must consider and comply with all provisions of these rules and 770—chapter 130.

In making decisions about which services to fund, the supervisors may consult with consumers, providers, Title XX advisory committee members and other interested parties.

131.6(2) The county shall sign a county participation agreement describing the responsibilities of the county and the department. This agreement shall include the county's assertion that the county will provide a twenty-five percent match for all local purchase services.

131.6(3) In no event shall a county be granted reimbursement for more state and federal funds than are allocated to it.

131.6(4) The district administrator will notify the affected county boards of supervisors when available block grant funding for a service has been exhausted.

131.6(5) The district administrator shall maintain a system for recording the encumbrance of local purchase funds. In monitoring the balance of funds in a county, the district administrator shall consider the number of clients in a service, the number of clients expected to use a service and the cost of those services. The district administrator will then determine if the remaining funds for a service within a county are sufficient; if not, the district administrator will so notify the affected county board of supervisors.

In the event funds are depleted and the county board of supervisors does not wish to transfer federal and state block grant funds available to the county from another service, the district administrator shall terminate the service.

131.6(6) When, based on encumbrance records maintained by the district administrator, a county does not appear to require all funds allocated to it, the district administrator may transfer funds to other counties in the district. At least thirty days prior to a transfer, the dis-

trict administrator will present to the county board of supervisors the reasons he or she believes the county will have surplus funds. The county board of supervisors will have ten days after receipt of the notice to respond. The county board of supervisors may present evidence agreeing or disagreeing with the reasons provided by the district administrator. The district administrator shall consider the evidence before transferring funds.

The district administrator shall have the authority to transfer funds.

770—131.7(234) Advisory committees. The department of social services shall maintain and utilize the state and district advisory committees established for providing recommendations on the allocation and uses of federal social services block grant funds during the fiscal year ending June 30, 1983. Persons interested in participating in the district advisory committees may contact the district administrator who will select the members. The statewide advisory committee shall consist of members from each of the district advisory committees. Two members shall represent each of the sixteen social services district offices as constituted prior to March 1982. Costs for meals, lodging, and travel for the state level advisory committee shall be paid by the department of social services at the same rate as state employees traveling within the state. For a one-day meeting, only one overnight expenditure will be allowed.

These rules are intended to implement Iowa Code section 234.6.

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ARC 3139**SOCIAL SERVICES DEPARTMENT[770]**

Pursuant to the authority of Iowa Code Section 219.3, rules of the Department of Social Services appearing in the IAC relating to the Iowa veterans home (Chapter 134) are hereby amended. The Council on Social Services adopted this rule July 28, 1982.

Notice of Intended Action regarding this rule was published in the IAB June 9, 1982, as ARC 2937. This rule requires spouses of veterans and veterans with no income to apply for Medicaid coverage in order to take advantage of other financial resources that may be available to persons not eligible for veterans administration benefits.

This rule is identical to that published under notice.

This rule is intended to implement Iowa Code section 219.3.

This rule shall become effective October 1, 1982.

Rule 770—134.1(219) is amended by adding a new subrule:

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134.1(7) Spouses of veterans and veterans who have no income and who have been admitted to the Iowa veterans home and assigned to the Title XIX certified unit shall apply for medical assistance under 770—chapter 75.

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ARC 3140**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code Section 234.6, rules of the Department of Social Services relating to residential services for adults (Chapter 162) are hereby adopted. The Council on Social Services adopted these rules July 29, 1982.

Notice of Intended Action regarding these rules was published in the IAB June 9, 1982, as ARC 2938. These are the rules for residential treatment and residential care services provided to adults in residential care facilities.

The definition of qualified psychologist was broadened [162.1(9)] and the words "social services" removed from 162.3(3).

These rules are intended to implement Iowa Code section 235.6(6)"i".

These rules shall become effective October 1, 1982.

CHAPTER 162**RESIDENTIAL SERVICES FOR ADULTS****770—162.1(234) Definitions.**

162.1(1) Residential treatment services. "Residential treatment services" means the habilitation, rehabilitation and treatment services provided to severely dysfunctional adults who live in licensed residential care facilities, in accordance with the individual client case plans developed by their department workers and the individual program plans developed by their interdisciplinary teams.

162.1(2) Residential care services. "Residential care services" means the social and support services and training provided to moderately dysfunctional adults who live in licensed residential care facilities, in accordance with the individual client case plans developed by their department workers and the individual program plans developed by their interdisciplinary teams.

162.1(3) Residential services. "Residential services" means residential treatment services and residential care services.

162.1(4) Severely dysfunctional adult. "Severely dysfunctional adult" means a person eighteen years of age or older who has pronounced physical, mental or developmental handicap(s), is incapable of proper self-care and has significant functional limitations in three or more of the following areas: Self-care, receptive and expressive

language, mobility, learning, self-direction, capacity for independent living, and economic self-sufficiency.

162.1(5) Moderately dysfunctional adult. "Moderately dysfunctional adult" means a person eighteen years of age or older who is essentially capable of physical self-care, but requires daily supervision and is unable to live independently because of mental or physical impairment or developmental delays, and inadequate social or vocational skills.

162.1(6) Provider. "Provider" means the organization, or a representative of the organization which has contracted with the department to provide residential services to a client.

162.1(7) Interdisciplinary team. "Interdisciplinary team" means the group of persons who plan, monitor and replan the care and services for a client. The interdisciplinary team is established by the provider and shall consist of, at minimum, (1) The client and, as appropriate, the client's representative; (2) representative(s) of the provider who is, or will be, directly involved in providing services to the client; and (3) the department worker.

162.1(8) Individual program plan. "Individual program plan" means a written goal-oriented plan of care and services developed for a client by the client's interdisciplinary team. It shall include the following:

a. A description of the client's condition(s), status and needs in the areas of physical, mental and emotional health, development, performance and functional abilities;

b. A statement of short- and long-range goals and specific objectives to reach each goal;

c. A statement of each specific service and item of care to be provided, and for each, the projected date of initiation, the anticipated duration, and identification of the persons or agencies responsible for providing the care or services;

d. Schedules for evaluation of the plan by the provider at least quarterly, and for semiannual review and revision of it by the interdisciplinary team.

162.1(9) Qualified professional. "Qualified professional" means personnel who meet the following professional standards:

a. "Qualified physician" means a person licensed to practice medicine and surgery under the provisions of Iowa Code chapter 148, or to practice osteopathic medicine and surgery under Iowa Code chapter 150A.

b. "Qualified social worker" means a person who holds a bachelor's or master's degree in social work from an accredited college or university, or who has a bachelor's degree in a field other than social work from an accredited college or university and three years of social work experience under the supervision of a qualified social worker.

c. "Qualified psychologist" means a person who has a master's degree in psychology and specialized training, or one year of postgraduate experience, in providing services to physically or mentally handicapped persons and who holds a current Iowa license to practice psychology if such is required by Iowa law.

d. "Qualified nurse" means a person licensed as a registered nurse under the provisions of Iowa Code chapter 152.

770—162.2(234) Client eligibility.

162.2(1) Purchased services. Purchased residential services shall be available to persons who meet the eligibility requirements for services in rule 770—130.3(234) and the following additional conditions:

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a. The person must have a significant physical, mental or developmental handicap, require supervision, assistance, or care on a daily basis, and be unable to live independently.

b. The person must live in a licensed residential care facility or a licensed residential care facility for the mentally retarded which offers residential care services or residential treatment services as herein described.

c. The person must have a need for services, as follows:

(1) Residential care services. To qualify for residential care services, it is required that an interdisciplinary team affirm that the person is a moderately dysfunctional adult who requires residential care services to increase physical and social self-sufficiency and independence and can have employment or participate in vocational or other training, such as sheltered work or work activity, GED training, or another formal or informal training program to increase personal job readiness, employability, or economic independence.

(2) Residential treatment services. To qualify for residential treatment services, it is required that an interdisciplinary team affirm that the person is a severely dysfunctional adult who requires residential treatment services to reduce functional limitations and become more self-sufficient and independent.

162.2(2) Direct services. Client assessment/case management services, as described in rules 770—130.6(234) and 770—130.7(234) shall be provided as follows to persons who live in a licensed residential care facility and meet the eligibility requirements of rule 770—130.3(234):

a. These services shall be provided to all applicants for, and recipients of, purchased residential services;

b. These services shall be available to other persons upon their own request or the request of their representative, provided that the services which they receive or seek meet the requirements for residential services as set forth in this chapter;

c. These services, and the services required by sub-rule 51.3(2), shall be provided to recipients of the state supplementary assistance program.

162.2(3) Redetermination of eligibility. Eligibility shall be redetermined by a department worker in accordance with rule 770—130.2(234) and the following conditions:

a. Eligibility for services shall be redetermined each six months, including those clients whose gross monthly income is derived from social security benefits or supplemental security income, or a combination thereof.

b. In reassessing the client's service need, the department worker shall:

(1) Review the progress and evaluation reports on the client, prepared by the provider;

(2) Participate in the interdisciplinary team review and revision of the client's individual program plan;

(3) Interview the client and the client's representative regarding the client's individual program plan and their assessment of it;

(4) Observe and evaluate the client's current behavior.

770—162.3(234) Purchased residential services. Purchased residential services shall be provided in accordance with the following requirements.

162.3(1) Provider eligibility. Residential care services or residential treatment services shall be purchased only from a provider who meets the requirements set forth in

these rules and who has a valid purchase-of-service agreement with the department.

162.3(2) Program integration. Residential services shall be planned and integrated with those services required of the provider by the state supplementary assistance program and the licensure regulations for residential care facilities.

162.3(3) Individualized planning. Residential services for each person shall be individually planned and each individual program plan shall set forth the person's service, maintenance, care and supervision needs, into a comprehensive twenty-four-hour-per-day program for the person. Reports required by the department shall be available to the interdisciplinary team from a qualified physician, a qualified psychologist and a qualified social worker, and from other representatives of professions, disciplines and service areas relevant to identifying the client's needs and designing programs to meet them. These persons may participate in the meetings of the interdisciplinary team, upon request of the client, the client's representative, the provider or the department worker. The interdisciplinary team shall meet as a group at least semiannually to review the client's health status, performance and needs, and to replan for the client as indicated.

162.3(4) Service provision.

a. The care, supervision and services provided each person shall be based on the individual program plan for the person.

b. Residential services shall be provided by qualified professionals or by personnel who meet the requirements of IAC 470—64.1(21) or by persons who work under their direction and supervision.

c. Provider shall be responsible for the provision of services to persons and shall either provide them directly or by written contract or agreement with another source.

162.3(5) Service provided. Residential services purchased from a provider agency shall include the following services, at minimum:

a. Support services, to enable persons to adjust to their environment, living arrangement, the significant people in their lives, and to their conditions of work and programs of training and services. These include:

(1) Counseling, by casework staff, to include individual counseling, group counseling, or family counseling, and family life education.

(2) Guidance, by members of the caretaker and professional staff, to consist of coaching, correction, encouragement and informal instruction provided as needed to persons in the residential services program.

b. Leisure-time and recreational services, to provide organized activities and guidance to assist the person in developing personal interests, educational background, knowledge and skills in the social, cultural and recreational areas, and the ability to use leisure time in a satisfying and constructive manner. Opportunities shall be provided for active or spectator participation in crafts, hobbies, games, sports, tours, lectures, art experiences, and performances and other structured recreational and educational experiences.

c. Habilitative and rehabilitative services which provide specialized, limited therapy intended to reduce or eliminate the long-term complications and functional limitations associated with acute and chronic conditions.

d. Independent living skills services, including instruction and experiences which enable the person to

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develop the skills necessary to maintain a separate household or to become more helpful and independent in performing household chores and transacting personal or family business.

e. Basic living skills services, including planned instruction and guidance designed to normalize the knowledge and skills of persons in those activities which are essential to daily living. Training may be provided on an individual or group basis, and by a variety of educational modalities. This service includes:

(1) Physical development training, to enhance motor and sensory development and the acquisition and the maintenance of strength, physical fitness, and good health habits;

(2) Self-help training, to develop knowledge, habits and skills in eating and food use, toileting, cleanliness, personal hygiene, grooming, dressing and undressing, care of clothing, and other care of person and personal property;

(3) Socialization training, to develop self-awareness and self-control, social responsiveness, group participation, social amenities, interpersonal skills, and other social traits;

(4) Communication training, to develop expressive and receptive skills in verbal and nonverbal language and written information;

(5) Mathematic skills training, to develop number recognition and skills in counting, making change, telling time, addition and subtraction, and other tasks which require a basic knowledge of mathematics.

f. Prevocational services, designed to increase the person's independence and readiness for competitive employment. These include:

(1) Assessment services, to include the administration of tests, surveys, social histories and organized experiential programs designed to assess the person's functional abilities, vocational aptitudes and interests, and work experiences, attitudes and habits;

(2) Planning services, provided by an interdisciplinary team of professionals, for the development of an individualized vocational plan for the person;

(3) Training and experiential services, to include individualized and group training, work therapy services, and task-oriented coaching and vocational counseling.

g. Vocational services, including vocational assessment and planning services, the provision of vocationally oriented training on an individual or group basis, vocational counseling and placement in work activity or sheltered workshop services or competitive employment.

h. Transportation services, including general transportation and specialized transportation services as required to implement each client's individual program plan, and to meet the client's other essential needs;

i. Assessment, evaluation and case planning services by direct care and professional staff on an ongoing basis to identify client needs, monitor and appraise client programs, and assure current and relevant case planning for clients;

j. Case management services, to co-ordinate the planning and delivery of care, supervision and services by provider staff and others in behalf of clients;

k. Transition services, including assessment, case planning, counseling, and consultation with significant others, as required to enable persons to make changes in

their care or service programs, their residential or vocational arrangements, or life style.

770—162.4(234) Residential treatment services. Residential treatment services shall consist of the following:

162.4(1) The residential services, as stated in subrule 162.3(5) with the following provisos:

a. Service as described in 162.3(5) shall be provided on an intensive and frequent basis to enhance and reinforce learning and effect positive behavioral change.

b. Skills training shall be provided on a basic level to enable persons to achieve success in the rudimentary tasks of self-care and day-to-day living.

162.4(2) Behavior management services shall be provided. This shall include a program of behavior reinforcement provided on an individualized basis by professionals and direct care staff members, to obtain desired behavior from the residents.

770—162.5(234) Residential care services. Residential care services shall consist of the following:

162.5(1) The residential services, as stated in 162.3(5).

162.5(2) A day activity program, arranged by the provider for each client and based upon the client's individual program plan.

a. The day activity programs shall be designed to increase the person's job readiness, employability or economic independence.

b. The day activity program can include sheltered work or work activity programs, a general education diploma (GED) program, vocationally related training or services, or competitive employment.

770—162.6(234) Termination of client's services. Purchased residential services provided to a person shall be terminated under any one of the following conditions:

162.6(1) The person is capable of living in a less restrictive living arrangement and could receive needed services there.

162.6(2) There is no evidence that the person is making progress toward the goals of the individual program plan.

162.6(3) The client's behavior or condition requires a higher level of care.

162.6(4) Any condition for termination exists as described in subrule 130.5(2).

[Filed 7/30/82, effective 10/1/82]

[Published 8/18/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/18/82.

EFFECTIVE DATE DELAY

[Pursuant to §17A.4(5)]

AGENCY	RULE	EFFECTIVE DATE DELAYED
Natural Resources Council[580]	3.1(4), 3.2(3)"c", 5.60(2)"c" [IAB 5/12/82 ARC 2866]	Forty-five days after convening of the next General Assembly pursuant to §17A.8(9)



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

Executive Order Number 44

WHEREAS, declining school enrollments have resulted in approximately 200 vacant school buildings in Iowa; and

WHEREAS, it is believed that a number of these vacant school buildings might be converted to alternate uses and utilized by churches, businesses, nonprofit associations and government entities; and

WHEREAS, alternate uses of vacant school buildings could pose significant economic benefits for local school districts and private and public entities which need additional space; and

WHEREAS, this potential for alternative uses of vacant school buildings was recognized by the enactment of Senate File 2046 which requires state agencies, counties and cities to consider leasing vacant school buildings prior to the leasing, purchase or construction of a building; and

WHEREAS, Senate File 2046 requires the Governor to issue an Executive Order to require state agencies to consider the leasing of vacant school buildings.

NOW, THEREFORE, I, Robert D. Ray, Governor of Iowa do hereby order and direct the following:

1. That the Department of Public Instruction notify each school district of the provisions in Senate File 2046, develop and maintain a list of vacant school buildings and make this list available to all state agencies with authority to lease, to purchase, or to construct buildings;
2. That all state agencies consider leasing appropriately located vacant school buildings prior to leasing space, or purchasing or constructing another building;
3. That such consideration include, but not be limited to the extent to which the location, cost and structure of the vacant school building meet the needs of the state agency;
4. That such consideration be made a part of the procedures used now and in the future by state agencies before a building is leased, purchased, or built;
5. That such consideration be documented, that the document be retained as part of the file relating to the lease, purchase or construction of the building by the state agency, and that the documentation be made available upon request.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 29th day of July in the year of our Lord one thousand nine hundred eighty-two.

Robert D. Ray
GOVERNOR

Attest:

Mary Jane Odell
SECRETARY OF STATE

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